

From: [Anderson, Cindy](#)
To: mark.nebeker@usdoj.gov
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached
Date: Wednesday, December 18, 2013 11:53:00 AM
Attachments: [202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#)
Importance: High

Mark -

(b)(5) AWP, DPP, ACP
[Redacted]

[Redacted]

[Redacted]

Thanks!

Cindy
564-2690

-----Original Message-----

From: Anderson, Cindy
Sent: Tuesday, December 17, 2013 11:04 AM
To: 'Nebeker, Mark (USADC)'
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached
Importance: High

We didn't get to this particular issue when talking this morning.

(b)(5) AWP, DPP, ACP
[Redacted]

[Redacted]

[Redacted]

Thanks!

Cindy

564-2690

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, December 13, 2013 4:53 PM
To: 'Chris Horner'
Cc: 'Nebeker, Mark (USADC)'
Subject: RE: CEI v. EPA (13-1074)

Thanks Chris.

No, Janet McCabe's name is not on the list that I've sent today.
I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.
It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

Cindy
564-2690

-----Original Message-----

From: Chris Horner [<mailto:CHorner@cei.org>]
Sent: Friday, December 13, 2013 4:45 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074)

Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

Sent from my iPhone

> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:
>
> Mr. Horner –
>
> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.
> I will also mail it through USPS as I did the previous material.
>
> Please let me know that you have received this information.
>
> Cindy Anderson
> EPA/OGC
> 564-2690
>
> From: Anderson, Cindy
> Sent: Friday, December 06, 2013 5:12 PM
> To: 'Chris Horner'
> Subject: CEI v. EPA (13-1074)
>
> Mr. Horner –
>
> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.
>
> I will place a hard copy of these documents in the mail as well.

>
> Cindy
> 564-2690
>
>
> <[Untitled].pdf>
> <12.5.13 final 25 pp_Redacted.pdf>
> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>





Bill Cycle Date	Invoice Number	Wireless Number	Item Description	Item Type	Allowance	Used	Billable
23-Jul-09	6295614107	202-596-0247	TXT Messaging	messages	unlimited	76	0
23-Aug-09	6309086813	202-596-0247	TXT Messaging	messages	unlimited	63	0
23-Sep-09	6322520212	202-596-0247	TXT Messaging	messages	unlimited	60	0
23-Oct-09	6335883612	202-596-0247	TXT Messaging	messages	unlimited	72	0
23-Nov-09	6349193443	202-596-0247	TXT Messaging	messages	unlimited	66	0
23-Dec-09	6362520426	202-596-0247	TXT Messaging	messages	unlimited	48	0
23-Jan-10	6375842164	202-596-0247	TXT MESSAGING	messages	unlimited	77	0
23-Feb-10	6389058113	202-596-0247	TXT MESSAGING	messages	unlimited	101	0
23-Mar-10	6402285332	202-596-0247	TXT MESSAGING	messages	unlimited	119	0
23-Apr-10	6415423956	202-596-0247	TXT MESSAGING	messages	unlimited	119	0
23-May-10	6428517850	202-596-0247	TXT MESSAGING	messages	unlimited	122	0
23-Jun-10	6441588936	202-596-0247	TXT MESSAGING	messages	unlimited	137	0
23-Jul-10	6454639656	202-596-0247	TXT MESSAGING	messages	unlimited	117	0
23-Aug-10	6467674274	202-596-0247	TXT MESSAGING	messages	unlimited	123	0
23-Sep-10	6480631085	202-596-0247	TXT MESSAGING	messages	unlimited	183	0
23-Oct-10	6493592835	202-596-0247	TEXT	messages	unlimited	188	0
23-Oct-10	6493592835	202-596-0247	TEXT GLOBAL ROAMING - RCV'D	messages	NA	16	16
23-Oct-10	6493592835	202-596-0247	TEXT GLOBAL ROAMING - SENT	messages	NA	12	12
23-Nov-10	6506542830	202-596-0247	TEXT	messages	unlimited	174	0
23-Dec-10	6519451892	202-596-0247	TEXT	messages	unlimited	152	0
23-Jan-11	6532336953	202-596-0247	TEXT	messages	unlimited	106	0
23-Feb-11	6545216087	202-596-0247	TEXT	messages	unlimited	159	0
23-Mar-11	6558133050	202-596-0247	TEXT	messages	unlimited	136	0
23-Apr-11	6571045985	202-596-0247	TEXT (03/24 - 04/12)	messages	unlimited	122	0

Month/Year	BillingPeriodTo	InvoiceNumber	MobileNumber	VendorServiceName	MessageEvents	MDRegistrationID
05/2011	05-May-11	5957296	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	97	R0543193
06/2011	05-Jun-11	6036720	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	186	R0543193
07/2011	05-Jul-11	6117193	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	270	R0543193
08/2011	05-Aug-11	6197763	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	134	R0543193
09/2011		6278842	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	119	R0543193
Month/Year	BillingPeriodTo	InvoiceNumber	MobileNumber	VendorServiceName	MessageEvents	MDRegistrationID
10/2011	05-Oct-11	6360272	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	137	R0543193
11/2011	05-Nov-11	6442049	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	156	R0543193
12/2011	05-Dec-11	6524141	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	167	R0543193
01/2012	05-Jan-12	6606529	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	247	R0543193
02/2012	05-Feb-12	6689411	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	208	R0543193
03/2012	05-Mar-12	6772605	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	166	R0543193
04/2012	05-Apr-12	6855990	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	248	R0543193
05/2012	05-May-12	6939609	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	255	R0543193
06/2012	05-Jun-12	7023458	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	225	R0543193
07/2012	05-Jul-12	7107552	(202) 596-0247	ENVIRONMENTAL PROTECTION AGENCY	239	R0543193

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: FW: CEI v. EPA (13-1074)
Date: Tuesday, November 26, 2013 4:52:00 PM

Mark –

(b)(5) AWP, DPP, ACP



As ever, thanks so much for your patience in this and other matters on behalf of EPA!
(and Happy Thanksgiving!)

Cindy


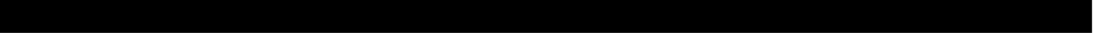


564-2690

From: Anderson, Cindy
Sent: Tuesday, November 26, 2013 10:23 AM
To: Nguyen, Quoc; Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074)

Mark –

Ex. 5

(b)(5) AWP, DPP, ACP



Cindy Anderson

From: Chris Horner <CHorner@cei.org>
Sent: Tuesday, November 26, 2013 10:17 AM
To: Nebeker, Mark (USADC)
Cc: Anderson, Cindy; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA (13-1074)

Ok Mark, take that time, and we would like the same but not counting the holiday period. So, you take the 11 days and we will take that, plus the week 'off', or 18 days. Does that work for you? (Btw Cindy, I never was provided the November production in that ATI case despite EPA claiming otherwise, and as I gave informed them twice; it also still was not at FOIAOnline as of yesterday, FYI. Since it us mentioned here).

Best,
Chris Horner

Sent from my iPhone

On Nov 25, 2013, at 4:55 PM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

<image001.png>

I am forced to ask for an additional extension of time to get the summary judgment motion filed in the above civil action. As, I believe, you know from our earlier discussions, the agency has located certain records that it intends to release (with redactions) in the case. Due to many competing issues that have arisen (before and after the government shutdown) the agency does not believe it can get to you the redacted production in advance of December 6, 2013. I also must participate in depositions in an unrelated civil action that was assigned to me late in the discovery process. That case also required that my client supplement the discovery responses this week. My agency counsel has also been required to assist in a production in another case that I believe you are handling (ATI v. EPA) which involves a document production next on December 15, 2013. I must also complete a motion and opposition in the Court of Appeals next week and be responsible for emergency matters should any motions for a temporary restraining orders be filed next week. In short, we are trying to respond properly in your case, but have many competing responsibilities.

May I have your consent to an extension of time to file our dispositive motion in this case on December 17, 2013 (a 2-week extension)? I am certainly willing to provide you whatever time you reasonably need to respond to the motion.

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Tuesday, November 12, 2013 4:50 PM
To: Nebeker, Mark (USADC)
Cc: Hans Bader; Sam Kazman; Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074)

We can consider CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training resolved.

Best,
Chris Horner

On 11/12/13 4:32 PM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

<image001.png>

Mr. Horner:

I am attempting to figure out whether we have any issues remaining as to CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training. Can you tell me whether we can put that one behind us?

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: FW: CEI v. EPA (13-1074) [bills for Gina McCarthy text messages]
Date: Friday, August 23, 2013 4:20:54 PM

Larry -

I'll try to schedule a call w/Mark Nebeker and you for Monday afternoon.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Nebeker, Mark (USADC) [Mark.Nebeker@usdoj.gov]
Sent: Friday, August 23, 2013 3:58 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) [bills for Gina McCarthy text messages]

Let's talk on Monday. (b)(5) AWP, DPP, ACP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Friday, August 23, 2013 11:24 AM
To: Nebeker, Mark (USADC)
Cc: Weinstock, Larry
Subject: RE: CEI v. EPA (13-1074) [bills for Gina McCarthy text messages]
Importance: High

Mark -

(b)(5) AWP, DPP, ACP

Let me know if you'd like to talk. I'm working at home today and can be reached on my cell (b) (6)
I think Monday would be easier but that gets closer to the August 29 due date for Answer.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Nebeker, Mark (USADC) [Mark.Nebeker@usdoj.gov]
Sent: Tuesday, August 20, 2013 2:35 PM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Thoughts?

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Tuesday, August 20, 2013 2:34 PM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

While I hgave your email address on related correspondence in front iof me, I wanted to shoot you over what I was speaking about yesterday. Our request re the phone/PDA bills was for the bills themselves; when we narrowed, we agreed to narrow to the text message portions of the bills themselves. EPA instead created the attached doc, which on its face cites the invoice numbers from which the information was obtained (See second column, Invoice number", e.g., 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal production, that we seek and that are responsive.

Best,
Chris Horner

On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

> Chris -
>
> Mark Nebeker suggested that I send this FOIA response (mailed last
> Thursday, August 15) to you directly since his computer is still not operating today.
>
> Cindy Anderson
> EPA/OGC
> (202) 564-2690

> _

>

> -----Original Message-----

> From: Anderson, Cindy
> Sent: Monday, August 19, 2013 10:28 AM
> To: 'mark nebeker@usdoj.gov'
> Subject: CEI v. EPA (13-1074)

>

> Mark -

>

> Attached are the documents that were sent to CEI last Thursday, August
> 15, in response to FOIA request HQ-2013-005618 (for evidence of
> training that Gina McCarthy took regarding record-keeping, etc.).

>

> Thanks!

>

> Cindy Anderson
> EPA/OGC
> (202) 564-2690
>
>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Thursday, August 29, 2013 12:58:00 PM
Importance: High

Mark -

(b)(5) AWP, DPP, ACP
[REDACTED]

Cindy
564-2690

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 12:56 PM
To: Reilly, Tom; DAVIS, TANIKA
Cc: Weinstock, Larry
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Importance: High

Tom & Tanika -

(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED] s?

Please feel free to call me to dicuss.
Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Thursday, August 29, 2013 12:38 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b) (5) DPP, (b) (5) ACP

Larry

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 11:32:26 AM
To: Weinstock, Larry
Cc: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b) (5) DPP, (b) (5) ACP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. Ex. 5 AWP

-----Original Message-----

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

> It is my understanding that the phone and text message bills to EPA
> are sent only electronically in very large files on a monthly basis.
> Each invoice is, in fact, on average about 43 megabytes. Were those
> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.
>
>
> -----Original Message-----
> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)
>
> Dear Mark,
>
> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
production, that we seek and that are responsive.
>
> Best,
> Chris Horner
>
>
> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:
>
>> Chris -
>>
>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.
>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690
>> _____
>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690



>>

>>

>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Thursday, October 24, 2013 4:28:00 PM
Attachments: [image.png](#)
Importance: High

(b) (5) DPP, (b) (5) ACP



Please call if you'd like to discuss. (b) (5) DPP, (b) (5) ACP

Cindy
564-2690

From: Christopher Horner [mailto:chris.horner@cei.org]
Sent: Thursday, October 24, 2013 4:19 PM
To: Anderson, Cindy
Cc: mark.nebeker@usdoj.gov; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Dear Ms. Anderson,

Per the below two emails from September 17 and 18, and specifically e.g., "I have requested that the bills for the months from April to November 2011 be sent to me as soon as possible.

Because it appears from the single month sample that was extracted, the invoices are lengthy and contain a number of different phone numbers, it will likely take several days this week to review and redact any exempt information from these records", can you please tell me the status of EPA's processing?

Best,
Chris Horner

----- Forwarded Message

From: "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov>
Date: Wed, 18 Sep 2013 15:39:43 +0000
To: Chris Horner <CHorner@cei.org>
Cc: "Anderson.cindy@epa.gov" <Anderson.cindy@epa.gov>

Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Mr. Horner:

I understand from Agency counsel in this matter that the EPA continues to pursue any information among its records that is responsive to CEI's FOIA request for all billing for text messages (from January 2009 to July 2013, the time of the original search) that are attributable to the mobile device that EPA provided to Gina McCarthy. As I indicated in my message to you earlier, the Agency has located records among its files from which certain data about individual text messages for a particular employee may be extracted. I understand that Agency counsel has directed the office responsible for mobile devices within EPA to provide that detailed information for as many months as are available. Because this is an ongoing effort and will require review of the detailed information in perhaps many months, invoices to determine what personal information is exempt from disclosure, the Agency seeks an extension of 2 weeks to file a Joint briefing schedule with the Court (meaning we would file it on 10/3/13).

Is 2 weeks OK?

Also, during that time, I understand that the EPA will review several months of invoices in order to make at least an initial release, after which the Agency would consider a further production schedule if additional information still needs to be reviewed. Recall that I said the Agency located the additional information for about 6 months. I am asking that they confirm that we have found all responsive information for the whole period covered by the FOIA request. If any additional information is found, we will let you know.

On 9/17/13 9:17 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

Mr. Horner

As you know, we have been making every effort to work with you to satisfy your recent FOIA requests regarding Ms. McCarthy's text messages, the billing therefor, and other information. As part of that continuing effort, I sought confirmation from the Agency's billing office that handles all EPA-issued mobile devices regarding monthly invoices and learned that for a period of approximately six to eight months (from April 2011 to November 2011) AT&T bills sent to EPA for mobile device usage included some detailed listing of text messages (without the texts themselves) for the mobile device assigned to Ms. McCarthy who was then Assistant Administrator for the Office of Air and Radiation. Prior to April 2011, when Ms. McCarthy had used Verizon for her mobile service, the bills were in the form that was sent to you last week, with only an aggregate number of text messages noted.

The EPA billing office indicated that until November 2011, AT&T provided monthly invoices for all Agency mobile devices on CDs from which it was possible to extract information about an individual user's text messaging. AT&T changed their billing in November 2011 to provide on-line invoices to EPA; we are now exploring whether data about individual use of text messaging can be extracted from this format.

I have requested that the bills for the months from April to November 2011 be sent to me as soon as possible. Because it appears from the single month sample that was extracted, the invoices are lengthy and contain a number of different phone numbers, it will likely take several days this week to review and redact any exempt information from these records (e.g., personal phone numbers).

In these circumstances, I have asked Mark Nebeker, the AUSA who is representing the EPA in this matter, to seek from the Court an extension of time before filing the Joint Proposed Briefing Schedule that is now due September 19, 2013. The purpose of the extension is to enable EPA to review the records and provide you with any releasable information. We would resume any discussion about withdrawal of the pending litigation once you have had an opportunity to review the records released to you.

Please advise Mr. Nebeker and me whether you will consent to such a motion.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Cc: [Nebeker, Mark \(USADC\)](#)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Thursday, August 29, 2013 11:35:00 AM
Attachments: [CEI.ans.doc](#) (b) (5) DPP, (b) (5) ACP, (b) (5) AWP
Importance: High

Larry -

I know you're on your way out-of-town.

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. Ex. 5 AWP
[REDACTED]

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

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If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

> It is my understanding that the phone and text message bills to EPA
> are sent only electronically in very large files on a monthly basis.
> Each invoice is, in fact, on average about 43 megabytes. Were those
> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

> -----Original Message-----

> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)

> Dear Mark,

> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
production, that we seek and that are responsive.

> Best,
> Chris Horner

> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>> Chris -

>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.

>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690

>> _____

>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Cc: [Ketcham-Colwill, Nancy](#)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Tuesday, September 03, 2013 1:46:00 PM
Attachments: [202-596-0247 - Jul 2010.pdf](#)
[202-596-0247 - Jan 2012.pdf](#)
[202-596-0247 - Message Events Count - Jul 09-Jun 12.xlsx](#)

(b) (5) DPP, (b) (5) ACP

Larry -

I hope you had a fine week-end away after I finally stopped pestering you on Thursday afternoon.

(b) (5) DPP, (b) (5) ACP

Cindy
564-2690

-----Original Message-----

From: Reilly, Tom
Sent: Thursday, August 29, 2013 1:28 PM
To: Anderson, Cindy
Cc: Weinstock, Larry
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Cindy,

See Tanika's note below and see if this works - (b) (5) DPP, (b) (5) ACP
Let me know if you have any questions.

Tom

From: DAVIS, TANIKA
Sent: Thursday, August 29, 2013 1:20 PM
To: Reilly, Tom
Subject: McCarthy Info

Tom,

(b) (5) DPP, (b) (5) ACP

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

~~~~~  
\*\*\*PLEASE NOTE\*\*\* If you require Mobile Device related assistance, please use the following contacts:  
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov All Other Locations - EPA Call  
Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Anderson, Cindy  
Sent: Thursday, August 29, 2013 12:54 PM  
To: Reilly, Tom; DAVIS, TANIKA  
Cc: Weinstock, Larry  
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
Importance: High

Tom & Tanika -

(b) (5) DPP, (b) (5) ACP

?

Please feel free to call me to dicuss.  
Thanks!

Cindy Anderson  
EPA/OGC

(202) 564-2690

-----Original Message-----

From: Weinstock, Larry  
Sent: Thursday, August 29, 2013 12:38 PM  
To: Anderson, Cindy  
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b) (5) DPP, (b) (5) ACP

Larry

---

From: Anderson, Cindy  
Sent: Thursday, August 29, 2013 11:32:26 AM  
To: Weinstock, Larry  
Cc: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b) (5) DPP, (b) (5) ACP

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Thursday, August 29, 2013 11:28 AM  
To: Anderson, Cindy  
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. Ex. 5 AWP

-----Original Message-----

From: Christopher Horner [[mailto:chris\\_horner@cei.org](mailto:chris_horner@cei.org)]  
Sent: Thursday, August 29, 2013 11:19 AM  
To: Nebeker, Mark (USADC)  
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

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Best,  
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> monthly bills to be printed out they would likely constitute 4,000 to  
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> Sent: Tuesday, August 20, 2013 2:34 PM  
> To: Nebeker, Mark (USADC)  
> Subject: Re: CEI v. EPA (13-1074)

> Dear Mark,

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> yesterday. Our request re the phone/PDA bills was for the bills  
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> portions of the bills themselves. EPA instead created the attached  
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> Chris Horner

> On 8/19/13 10:56 AM, "Anderson, Cindy" <[anderson.cindy@epa.gov](mailto:anderson.cindy@epa.gov)> wrote:

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>> Thursday, August 15) to you directly since his computer is still not  
>> operating today.

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

---

>> \_

>> \_

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

**From:** [Anderson, Cindy](#)  
**To:** [Weinstock, Larry](#)  
**Subject:** FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
**Date:** Thursday, August 29, 2013 3:23:00 PM  
**Importance:** High

Just in case you're checking email [and I hope you're not], (b) (5) DPP, (b) (5) ACP

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Thursday, August 29, 2013 3:18 PM  
To: 'Nebeker, Mark (USADC)'  
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
Importance: High

(b) (5) DPP, (b) (5) ACP

Thanks!

[would you please send me a copy of the filed Answer and Motion; I sometimes have a hard time down-loading from CourtLink and we do not have access to PACER here at poor ole EPA]

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Thursday, August 29, 2013 2:59 PM  
To: 'Nebeker, Mark (USADC)'  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
Importance: High

(b) (5) DPP, (b) (5) ACP

(b) (5) DPP, (b) (5) ACP

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Thursday, August 29, 2013 2:39 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Today (and only today) I like my job over yours. Good luck.

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Thursday, August 29, 2013 2:01 PM  
To: Nebeker, Mark (USADC)  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

I'm eating while reviewing the documents just in from billing folks.

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Thursday, August 29, 2013 1:58 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Get some lunch

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Thursday, August 29, 2013 1:57 PM  
To: Nebeker, Mark (USADC)  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b) (5) DPP, (b) (5) ACP

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]



Sent: Thursday, August 29, 2013 1:44 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b) (5) DPP, (b) (5) ACP ?

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Thursday, August 29, 2013 1:34 PM  
To: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
Importance: High

Mark -

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

Cindy  
564-2690

-----Original Message-----

From: Reilly, Tom  
Sent: Thursday, August 29, 2013 1:28 PM  
To: Anderson, Cindy  
Cc: Weinstock, Larry  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Cindy,

See Tanika's note below and see if this works - (b) (5) DPP, (b) (5) ACP  
Let me know if you have any questions.

Tom

From: DAVIS, TANIKA  
Sent: Thursday, August 29, 2013 1:20 PM  
To: Reilly, Tom  
Subject: McCarthy Info

Tom,

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

(b) (5) DPP, (b) (5) ACP

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov

~~~~~  
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Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 12:54 PM
To: Reilly, Tom; DAVIS, TANIKA
Cc: Weinstock, Larry
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Importance: High

Tom & Tanika -

(b) (5) DPP, (b) (5) ACP

?

Please feel free to call me to dicuss.
Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Thursday, August 29, 2013 12:38 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b) (5) DPP, (b) (5) ACP

Larry

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 11:32:26 AM
To: Weinstock, Larry
Cc: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b) (5) DPP, (b) (5) ACP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. Ex. 5 AWP

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

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Best,
Chris

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> are sent only electronically in very large files on a monthly basis.
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> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
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> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

>
>
> -----Original Message-----

> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)

>
> Dear Mark,

>
> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
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> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
production, that we seek and that are responsive.

>
> Best,
> Chris Horner

>
>
> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>
>> Chris -

>>
>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.

>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690

>> _____

>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

From: [Anderson, Cindy](#)
To: [McDermott, Marna](#)
Cc: [Miller, Kevin](#)
Subject: FW: CEI v. EPA (13-1074) bills for text messages - GMcCarthy
Date: Tuesday, September 10, 2013 12:09:00 PM
Attachments: [202-596-0247 - Jul 2010.pdf](#) (b) (5) DPP, (b) (5) ACP
[202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#) Attachment already provided

Marna –
For Wed, Sept. 11, Bi-Weekly with GLO:

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cindy
564-2690

From: Anderson, Cindy
Sent: Monday, September 09, 2013 10:57 AM
To: Miller, Kevin; Weinstock, Larry
Subject: CEI v. EPA (13-1074) bills for text messages - GMcCarthy

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Anderson, Cindy](#)
To: mark.nebeker@usdoj.gov
Cc: [Weinstock, Larry](#)
Subject: FW: CEI v. EPA (13-1074) bills for text messaging
Date: Tuesday, August 27, 2013 11:08:00 AM
Attachments: [Response to request for clarification.doc](#)
[request for clarification.phone bills.pdf](#)
[202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#)

Requester has attachments

Mark –

Here are the July 3 communications with Chris Horner/ATI regarding clarification and limiting of his request for bills for Gina text messaging, along with a copy of the document that OAR sent, [REDACTED]

(b) (5) DPP, (b) (5) ACP [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, August 27, 2013 9:31 AM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) bills for text messaging

From: Anderson, Cindy
Sent: Monday, August 26, 2013 4:30 PM
To: Weinstock, Larry
Subject: CEI v. EPA (13-1074) bills for text messaging

Larry
(sorry to be filling your inbox)

I'd like to send Mark not only the actual release you made (was it July 25 or 26?) but also the July 3 letter that you sent to Chris Horner seeking clarification and his email response of July 3 to FOIA_HQ@EPA. I have those in the FOIA file so perhaps I can ask our Document Control

Officer, Barbara Bruce, to download them for me tomorrow.

But, if you have access to those electronically, could you send them to me as well?

(b) (5) DPP, (b) (5) ACP

Thanks!

-

Cindy Anderson

EPA/OGC

(202) 564-2690

From: [Nebeker, Mark \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: FW: CEI v. EPA (13-1074)
Date: Thursday, August 29, 2013 11:30:09 AM
Attachments: [CEI.ans.doc](#) (b) (5) DPP, (b) (5) ACP, (b) (5) AWP

Here is Horner's email. Ex. 5 AWP

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

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> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information

> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

>
>

> -----Original Message-----

> From: Christopher Horner [mailto:chris_horner@cei.org]

> Sent: Tuesday, August 20, 2013 2:34 PM

> To: Nebeker, Mark (USADC)

> Subject: Re: CEI v. EPA (13-1074)

>

> Dear Mark,

>

> While I gave your email address on related correspondence in front

> of me, I wanted to shoot you over what I was speaking about

> yesterday. Our request re the phone/PDA bills was for the bills

> themselves; when we narrowed, we agreed to narrow to the text message

> portions of the bills themselves. EPA instead created the attached

> doc, which on its face cites the invoice numbers from which the

> information was obtained (See second column, Invoice number", e.g.,

> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal production, that we seek and that are responsive.

>

> Best,

> Chris Horner

>

>

> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>

>> Chris -

>>

>> Mark Nebeker suggested that I send this FOIA response (mailed last

>> Thursday, August 15) to you directly since his computer is still not

>> operating today.

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>
>>
>

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: FW: CEI v. EPA (13-1074)
Date: Wednesday, August 21, 2013 12:52:00 PM
Attachments: [202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#)
Importance: High

Requester has attachment

Here's the message from Nebeker, our AUSA in this case (CEI v. EPA, 13-1074).

Ex. 5 DPP, ACP, AWP

Thanks -

I'll try to call you around 3pm or after.

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Tuesday, August 20, 2013 2:35 PM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Thoughts?

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Tuesday, August 20, 2013 2:34 PM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

While I gave your email address on related correspondence in front of me, I wanted to shoot you over what I was speaking about yesterday. Our request re the phone/PDA bills was for the bills themselves; when we narrowed, we agreed to narrow to the text message portions of the bills themselves. EPA instead created the attached doc, which on its face cites the invoice numbers from which the information was obtained (See second column, Invoice number", e.g., 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal production, that we seek and that are responsive.

Best,
Chris Horner

On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

> Chris -
>
> Mark Nebeker suggested that I send this FOIA response (mailed last
> Thursday, August 15) to you directly since his computer is still not operating today.
>
> Cindy Anderson

> EPA/OGC
> (202) 564-2690

>

> _

>

> -----Original Message-----

> From: Anderson, Cindy

> Sent: Monday, August 19, 2013 10:28 AM

> To: 'mark nebeker@usdoj.gov'

> Subject: CEI v. EPA (13-1074)

>

> Mark -

>

> Attached are the documents that were sent to CEI last Thursday, August
> 15, in response to FOIA request HQ-2013-005618 (for evidence of
> training that Gina McCarthy took regarding record-keeping, etc.).

>

> Thanks!

>

> Cindy Anderson

> EPA/OGC

> (202) 564-2690

>

>

From: [Anderson, Cindy](#)
To: [Ketcham-Colwill, Nancy](#)
Subject: FW: CEI v. EPA (13-1074)
Date: Tuesday, August 20, 2013 3:04:00 PM
Attachments: [202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#)

Requester has attachment

Nancy -

This is the other CEI FOIA lawsuit I'm handling. [Ex. 5 DPP, ACP, AWP
[REDACTED]
[REDACTED]
[REDACTED]

Is there a chance we might talk either later this afternoon (after a 3pm conference call on another FOIA lawsuit in D.Col.) or sometime tomorrow?

Thanks!

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Tuesday, August 20, 2013 2:35 PM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Thoughts?

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Tuesday, August 20, 2013 2:34 PM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

While I hgave your email address on related correspondence in front iof me, I wanted to shoot you over what I was speaking about yesterday. Our request re the phone/PDA bills was for the bills themselves; when we narrowed, we agreed to narrow to the text message portions of the bills themselves. EPA instead created the attached doc, which on its face cites the invoice numbers from which the information was obtained (See second column, Invoice number", e.g., 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal production, that we seek and that are responsive.

Best,
Chris Horner

On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

> Chris -

>

> Mark Nebeker suggested that I send this FOIA response (mailed last

> Thursday, August 15) to you directly since his computer is still not operating today.

>

> Cindy Anderson

> EPA/OGC

> (202) 564-2690

>

> _

>

> -----Original Message-----

> From: Anderson, Cindy

> Sent: Monday, August 19, 2013 10:28 AM

> To: 'mark nebeker@usdoj.gov'

> Subject: CEI v. EPA (13-1074)

>

> Mark -

>

> Attached are the documents that were sent to CEI last Thursday, August

> 15, in response to FOIA request HQ-2013-005618 (for evidence of

> training that Gina McCarthy took regarding record-keeping, etc.).

>

> Thanks!

>

> Cindy Anderson

> EPA/OGC

> (202) 564-2690


>

>

From: [Anderson, Cindy](#)
To: mark.nebeker@usdoj.gov
Subject: FW: CEI v. EPA, CA No. 13-1074 (Gina McCarthy text message billing)
Date: Monday, September 16, 2013 3:10:00 PM
Importance: High

Mark –

Ex. 5 DPP, ACP, AWP



Let's talk.

Cindy
564-2690

From: Chris Horner [<mailto:CHorner@cei.org>]
Sent: Monday, September 16, 2013 10:38 AM
To: Nebeker, Mark (USADC)
Cc: Anderson, Cindy
Subject: RE: CEI v. EPA, CA No. 13-1074

OK thanks, please do inform of details so I fully understand the temporary nature of ATT sending (at least some) metadata, cch

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Mon 9/16/2013 10:32 AM
To: Chris Horner

Cc: Anderson.cindy@epa.gov
Subject: RE: CEI v. EPA, CA No. 13-1074

One snag. I was mistaken in my thinking that we got NO details from AT&T. It seems that there was a brief period that the Agency may have gotten some details not of an actual text message, but of the number that a text went to or was received from. It got these on CDs that covered billing for the whole agency's mobile devices for about 6 months in 2011, and which I just recently learned had been located. I am attempting to get more details, but don't want you dismissing if this makes any difference to your client. But we'll work toward getting this resolved regardless.

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Monday, September 16, 2013 9:40 AM
To: Nebeker, Mark (USADC)
Cc: Anderson.cindy@epa.gov; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA, CA No. 13-1074

Thank you Mark,

We can't state that our request was satisfied, obviously, but with this information we will dismiss.

Best,
Chris Horner

On 9/12/13 9:54 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov<<mailto:Mark.Nebeker@usdoj.gov>>>
wrote:
Mr. Horner -

As you requested in your email message of August 29, attached is information that was extracted from random invoices for the time period that you had requested regarding billing for Gina McCarthy's text messages over three years.

You will see that the Data for "TXT Messaging" is an aggregate number. The number for this particular billing period is 117 which, I understand, corresponds to the same number in the information provided to you by the Office of Air and Radiation for the invoice of that date, 23-Jul-10, that is attributable to the EPA-provided mobile phone assigned to Ms. McCarthy.

Although phone calls are delineated by each number called and the airtime and charges, that is not true for text messages. It is my understanding the Agency does not receive a record from Verizon (or, in this case, its predecessor, AT&T) of individual text messages made by its employees, including Ms. McCarthy.

You may also note that this portion of the billing that is sent to EPA electronically for all telephone usage is for a phone number that was originally assigned to Frank Rusincovitch in 2008. I understand that, in accordance with EPA practice, one individual procured the 15 telephone devices in 2008 for the Agency and they were distributed to EPA officials as needed. The office responsible for tracking billing from the internal inventory database also keeps track of who is assigned to each device by means of the assigned telephone number. In this case, I believe, the number was activated for Gina McCarthy in 2009.

Finally, material on this document that does not relate to billing for text messages has been redacted as non-responsive.

Please let me know if this satisfies your inquiry and if your client is now prepared to dismiss some or all of the claims in the above civil action.

Mark Nebeker
(202) 252-2536

Mark —

[REDACTED]

[REDACTED]

[REDACTED]

Ex. 5 ACP, AWP

[illegible]

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Monday, September 16, 2013 10:32 AM
To: Christopher Horner
Cc: Anderson, Cindy
Subject: RE: CEI v. EPA, CA No. 13-1074

One snag. I was mistaken in my thinking that we got NO details from AT&T. It seems that there was a brief period that the Agency may have gotten some details not of an actual text message, but of the number that a text went to or was received from. It got these on CDs that covered billing for the whole agency's mobile devices for about 6 months in 2011, and which I just recently learned had been located. I am attempting to get more details, but don't want you dismissing if this makes any difference to your client. But we'll work toward getting this resolved regardless.

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Monday, September 16, 2013 9:40 AM
To: Nebeker, Mark (USADC)
Cc: Anderson.cindy@epa.gov; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA, CA No. 13-1074

Thank you Mark,

We can't state that our request was satisfied, obviously, but with this information we will dismiss.

Best,
Chris Horner

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Mr. Horner –

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You may also note that this portion of the billing that is sent to EPA electronically for all telephone usage is for a phone number that was originally assigned to Frank Rusincovitch in

2008. I understand that, in accordance with EPA practice, one individual procured the 15 telephone devices in 2008 for the Agency and they were distributed to EPA officials as needed. The office responsible for tracking billing from the internal inventory database also keeps track of who is assigned to each device by means of the assigned telephone number. In this case, I believe, the number was activated for Gina McCarthy in 2009.

Finally, material on this document that does not relate to billing for text messages has been redacted as non-responsive.

Please let me know if this satisfies your inquiry and if your client is now prepared to dismiss some or all of the claims in the above civil action.

Mark Nebeker
(202) 252-2536

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#)
Subject: FW: Detailed Billing for Gina McCarthy
Date: Thursday, August 29, 2013 10:04:49 AM
Attachments: [202-596-0247 - Message Events Count - Jul 09-Jun 12.xls](#) (b) (5) DPP, (b) (5) ACP

-----Original Message-----

From: Reilly, Tom
Sent: Tuesday, July 02, 2013 3:03 PM
To: Weinstock, Larry
Subject: FW: Detailed Billing for Gina McCarthy

Larry,

File updated - let me know if this answers your question.

Tom

-----Original Message-----

From: DAVIS, TANIKA
Sent: Tuesday, July 02, 2013 3:01 PM
To: Reilly, Tom
Subject: RE: Detailed Billing for Gina McCarthy

Tom,

(b) (5) DPP

If this is not what they are looking for please let me know.

Thanks,

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

~~~~~  
\*\*\*PLEASE NOTE\*\*\* If you require Mobile Device related assistance, please use the following contacts:  
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or [EZTech@epa.gov](mailto:EZTech@epa.gov) All Other Locations - EPA Call Center at 866-411-4EPA or [EPACALLCENTER@epa.gov](mailto:EPACALLCENTER@epa.gov)

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom  
Sent: Tuesday, July 02, 2013 2:02 PM  
To: DAVIS, TANIKA  
Subject: FW: Detailed Billing for Gina McCarthy

Tanika,

See Larry's request below - (b) (5) DPP ?

Tom

-----Original Message-----

From: Weinstock, Larry  
Sent: Tuesday, July 02, 2013 1:58 PM  
To: Reilly, Tom  
Subject: RE: Detailed Billing for Gina McCarthy

(b) (5) DPP

Thanks  
Larry

-----Original Message-----

From: Reilly, Tom  
Sent: Thursday, June 27, 2013 3:13 PM  
To: Weinstock, Larry  
Subject: FW: Detailed Billing for Gina McCarthy

Larry,

My apologies - I have been tied up with FY14 budget schedules that we had to file this week - I received the attached data from our Mobile Device contractor - (b) (5) DPP

Tom

-----Original Message-----

From: DAVIS, TANIKA  
Sent: Tuesday, June 25, 2013 1:26 PM  
To: Reilly, Tom; Clark, Dee; Grantham, Jessica  
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: RE: Detailed Billing for Gina McCarthy

Tom,

(b) (5) DPP

Please let me know if you have any questions.

Thanks,

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov

~~~~~  
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Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom
Sent: Tuesday, June 11, 2013 3:34 PM
To: DAVIS, TANIKA; Clark, Dee; Grantham, Jessica
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy

Tanika,

Thanks for the information - (b) (5) DPP ?

Tom

-----Original Message-----

From: DAVIS, TANIKA
Sent: Tuesday, June 11, 2013 3:26 PM
To: Reilly, Tom; Clark, Dee; Grantham, Jessica
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy

Hello Everyone,

(b) (5) DPP

Please let me know if you have any questions.

Thanks,

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

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Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom  
Sent: Tuesday, June 11, 2013 12:01 PM  
To: DAVIS, TANIKA; Clark, Dee; Grantham, Jessica  
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: RE: Detailed Billing for Gina McCarthy

Thank you Tanika

-----Original Message-----

From: DAVIS, TANIKA  
Sent: Tuesday, June 11, 2013 11:59 AM  
To: Reilly, Tom; Clark, Dee; Grantham, Jessica  
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: RE: Detailed Billing for Gina McCarthy

Tom,

I was in a meeting. I am working on that now. I will send as soon as possible.

Thanks,

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov

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Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom
Sent: Tuesday, June 11, 2013 11:28 AM
To: DAVIS, TANIKA; Clark, Dee; Grantham, Jessica
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy

Tanika,

(b) (5) DPP

Tom

-----Original Message-----

From: DAVIS, TANIKA
Sent: Monday, June 10, 2013 5:39 PM
To: Reilly, Tom; Clark, Dee; Grantham, Jessica
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy

Hello Everyone,

(b) (5) DPP

Thanks,

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
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Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom  
Sent: Monday, June 10, 2013 2:02 PM  
To: DAVIS, TANIKA; Clark, Dee; Grantham, Jessica  
Cc: Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: RE: Detailed Billing for Gina McCarthy

Tanika,

Give me what you can by the end of today

Tom

-----Original Message-----

From: DAVIS, TANIKA  
Sent: Monday, June 10, 2013 2:00 PM  
To: Clark, Dee; Grantham, Jessica  
Cc: Reilly, Tom; Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: RE: Detailed Billing for Gina McCarthy

Dee,

(b) (5) DPP  
[Redacted]

Please advise.

Thanks,

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov

~~~~~  
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Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Clark, Dee
Sent: Monday, June 10, 2013 12:45 PM
To: DAVIS, TANIKA; Grantham, Jessica
Cc: Reilly, Tom; Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy
Importance: High

Tanika,

(b) (5) DPP

Thanks,

Dee Clark
WCF Service Manager for MD, YA, LD, LE, & LF ATPOC for TDD 04 & 09 (ITS-ACT II) ITIL v3 Foundation
Level Certified U. S. EPA | OEI | OTOP | EDSD | EPA West - 6312L clark.dee@epa.gov | 202-566-0890 office |
202-297-5756 cell

-----Original Message-----

From: DAVIS, TANIKA
Sent: Monday, June 10, 2013 12:25 PM
To: Clark, Dee; Grantham, Jessica
Cc: Reilly, Tom; Aydlett, Dwayne; Lanier, Lynsey; Beaver, William
Subject: RE: Detailed Billing for Gina McCarthy

Dee,

(b) (5) DPP

Thanks,

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
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Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Clark, Dee  
Sent: Monday, June 10, 2013 11:29 AM  
To: Grantham, Jessica; DAVIS, TANIKA  
Cc: Reilly, Tom; Aydlett, Dwayne; Lanier, Lynsey; Beaver, William  
Subject: FW: Detailed Billing for Gina McCarthy

Jessica/Tanika,

Please provide the requested data today.

Thanks for your hard work on this!!!

Dee Clark

WCF Service Manager for MD, YA, LD, LE, & LF ATPOC for TDD 04 & 09 (ITS-ACT II) ITIL v3 Foundation  
Level Certified U. S. EPA | OEI | OTOP | EDSO | EPA West - 6312L clark.dee@epa.gov | 202-566-0890 office |  
202-297-5756 cell

-----Original Message-----

From: Reilly, Tom  
Sent: Thursday, June 06, 2013 11:10 AM  
To: Clark, Dee  
Subject: FW: Detailed Billing for Gina McCarthy

Dee,

(b) (5) DPP  
[Redacted]

Tom

-----Original Message-----

From: Slade, Reginald  
Sent: Thursday, June 06, 2013 9:41 AM  
To: Reilly, Tom  
Subject: RE: Detailed Billing for Gina McCarthy

Tom,

(b) (5) DPP  
[Redacted]

Many thanks,

Reginald A. Slade  
Team Leader/Information Management Officer (IMO) Office of Air and Radiation  
202 564-1346

-----Original Message-----

From: Slade, Reginald  
Sent: Wednesday, June 05, 2013 9:35 AM  
To: Reilly, Tom  
Subject: RE: Detailed Billing for Gina McCarthy

Thanks Tom!

Reginald A. Slade  
Team Leader/Information Management Officer (IMO) Office of Air and Radiation  
202 564-1346

-----Original Message-----

From: Reilly, Tom  
Sent: Wednesday, June 05, 2013 9:25 AM  
To: Slade, Reginald; Noga, Vaughn; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA  
Cc: Simmons, Joseph; Lee, Maja; Aydlott, Dwayne; Beaver, William; Lanier, Lynsey; Salgado, Omayra  
Subject: RE: Detailed Billing for Gina McCarthy

Reggie,

I have the Lockheed guys pulling that for you right now

Tom

-----Original Message-----

From: Slade, Reginald  
Sent: Wednesday, June 05, 2013 9:24 AM  
To: Noga, Vaughn; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA  
Cc: Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlott, Dwayne; Beaver, William; Lanier, Lynsey; Salgado, Omayra  
Subject: RE: Detailed Billing for Gina McCarthy

Vaughn,

(b) (5) DPP

Thanks.

Reginald A. Slade  
Team Leader/Information Management Officer (IMO) Office of Air and Radiation  
202 564-1346

-----Original Message-----

From: Noga, Vaughn  
Sent: Wednesday, June 05, 2013 9:22 AM  
To: Slade, Reginald; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA  
Cc: Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlott, Dwayne; Beaver, William; Lanier, Lynsey; Salgado, Omayra  
Subject: RE: Detailed Billing for Gina McCarthy

Reggie,

(b) (5) DPP

(b) (5) DPP?

Vaughn

-----Original Message-----

From: Slade, Reginald

Sent: Wednesday, June 05, 2013 9:19 AM

To: Noga, Vaughn; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA

Cc: Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlett, Dwayne; Beaver, William; Lanier, Lynsey; Salgado, Omayra

Subject: RE: Detailed Billing for Gina McCarthy

Vaughn,

(b) (5) DPP

Many thanks,

Reginald A. Slade

Team Leader/Information Management Officer (IMO) Office of Air and Radiation

202 564-1346

-----Original Message-----

From: Noga, Vaughn

Sent: Tuesday, June 04, 2013 3:50 PM

To: Slade, Reginald; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA

Cc: Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlett, Dwayne; Beaver, William; Lanier, Lynsey

Subject: Re: Detailed Billing for Gina McCarthy

Thank you.

Team - please provide an ETA for the info.

---

From: Slade, Reginald

Sent: Tuesday, June 04, 2013 12:59:28 PM

To: Noga, Vaughn; Clark, Dee; Grantham, Jessica; DAVIS, TANIKA

Cc: Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlett, Dwayne; Beaver, William; Lanier, Lynsey

Subject: RE: Detailed Billing for Gina McCarthy

Officially less than 20 working days. Since the request is for Gina, her Chief of Staff is anticipating that to mean this week, if possible.

Thanks,

Reginald A. Slade

Team Leader/Information Management Officer (IMO) Office of Air and Radiation

202 564-1346

-----Original Message-----

From: Noga, Vaughn

Sent: Tuesday, June 04, 2013 12:54 PM

To: Clark, Dee; Grantham, Jessica; DAVIS, TANIKA

Cc: Slade, Reginald; Simmons, Joseph; Lee, Maja; Reilly, Tom; Aydlett, Dwayne; Beaver, William; Lanier, Lynsey

Subject: RE: Detailed Billing for Gina McCarthy

Is there a suspense date associated with this request?

-----Original Message-----

From: Clark, Dee

Sent: Tuesday, June 04, 2013 11:38 AM

To: Grantham, Jessica; DAVIS, TANIKA

Cc: Slade, Reginald; Simmons, Joseph; Noga, Vaughn; Lee, Maja; Reilly, Tom; Aydlett, Dwayne; Beaver, William; Lanier, Lynsey

Subject: FW: Detailed Billing for Gina McCarthy

Importance: High

Jessica/Tanika,

Please provide the Call Detail Records (CDRs) requested by OAR for Gina McCarthy.

Thanks,

Dee Clark

WCF Service Manager for MD, YA, LD, LE, & LF ATPOC for TDD 04 & 09 (ITS-ACT II) ITIL v3 Foundation  
Level Certified U.S. EPA | OEI |OTOP | EDSD | EPA West - 6312L | clark.dee@epa.gov | 202-566-0890 office  
|202-297-5756 cell

---

From: Simmons, Joseph

Sent: Tuesday, June 04, 2013 9:57 AM

To: EPA Call Center with questions

Cc: Clark, Dee; Slade, Reginald

Subject: Detailed Billing for Gina McCarthy

This message is to request detailed billing for Gina McCarthy's mobile devices for the dates of July 1, 2009 to June 30, 2012. The devices are:

1. AT&T Torch - phone number (b) (6)

2. Verizon Cell Phone - phone number (b) (6)

This request is in response to a FOIA request from Congress. Feel free to contact me if you have any questions or concerns.

Thanks

Joseph

OAR/OPMO

202-564-1296



**From:** [Anderson, Cindy](#)  
**To:** [Miller, Kevin](#)  
**Cc:** [Minoli, Kevin](#); [mark.nebeker@usdoj.gov](mailto:mark.nebeker@usdoj.gov)  
**Subject:** FW: FOIA request EPA-HQ-2013-009249  
**Date:** Wednesday, September 11, 2013 3:04:00 PM  
**Importance:** High

---

Ex. 5 DPP, ACP,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cindy  
564-2690

---

**From:** Chris Horner [mailto:CHorner@cei.org]  
**Sent:** Wednesday, September 11, 2013 2:50 PM  
**To:** Anderson, Cindy  
**Subject:** RE: FOIA request EPA-HQ-2013-009249

Dear Ms. Anderson,

We are not aware of any progress in the litigation you refer to, as discussed, below. We are not waiving and have not waived any rights in relation to 009249 or any other request by verbally characterizing to EPA and DoJ counsel that -009249 was to protect us against EPA's current approach of not providing the responsive records we requested in 006937, but instead providing certain responsive information from those records.

For that latter reason there does not appear to be any pending or potential resolution, as in that call we suggested resolution was possible after reviewing exemplar responsive records; as you note this was two weeks ago, and we have received no such records, nor an assurance of receiving such records, but only demurrer. In fact, it is reasonable to conclude that EPA still will not produce responsive records (as identified in the "Invoice Nos" on the spreadsheet EPA provided excerpting certain responsive information from those records).

Regardless, this interpretation or response below is unilateral and in error, please do not cease processing that request, and we plan to continue operating on the relevant timetable in protecting our appellate rights as regards 009249 consistent with our request date.

If you have any questions please do not hesitate to contact me.

Yours,

Christopher C. Horner Senior Fellow Competitive Enterprise Institute 1899 L St, NW 12th Floor Washington, DC, 20036 +1.202.262.4458 (M)

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wed 9/11/2013 2:37 PM  
To: Chris Horner  
Subject: FOIA request EPA-HQ-2013-009249

Mr. Horner -

I am writing in regard to the telephone conversation of August 29 between Mark Nebeker, Assistant U.S. Attorney, and you (to which I was also a party) about one of the pending FOIA lawsuits for which you serve as plaintiff's counsel.

After receiving information responsive to your earlier FOIA request for phone bills related to Gina McCarthy's use of text messages over a three-year period, you submitted an additional FOIA request, noted by number in the subject line above.

Based on the August 29 conversation, I understand that you intended the more recent FOIA request seeking "Certain Agency Records: Gina McCarthy Complete Phone/PDA bills, billing periods ending December 23, 2009, July 5, 2011" to be only "belt and suspenders" to assure that the organization you represent, Competitive Enterprise Institute, is sent the information that it continues to seek regarding billing for text messages related to Gina McCarthy's use of her EPA-issued mobile phone.

In these circumstances, I am writing now to let you know that processing of the more recent FOIA request regarding bills for Ms. McCarthy's text messages for two specified billing periods is now in abeyance, or tolled, pending potential resolution of the lawsuit related to the same information, that litigation being *CEI v. EPA* (13-1074, DDC).

I appreciate your acknowledging receipt of this message.

Cindy Anderson  
EPA/OGC  
(202) 564-2690

**From:** [Anderson, Cindy](#)  
**To:** [Hilton, Patricia](#)  
**Cc:** [DAVIS, TANIKA](#); [Reilly, Tom](#); [McKenzie, Raymond](#)  
**Subject:** FW: FOIA request EPA-HQ-2013-009249  
**Date:** Monday, September 16, 2013 2:50:00 PM  
**Attachments:** [Horner \(McCarthy Phone PDA Bills Dec 23, 2009, July 5, 2011\)\(c\).pdf](#) Requester has attachment  
**Importance:** High

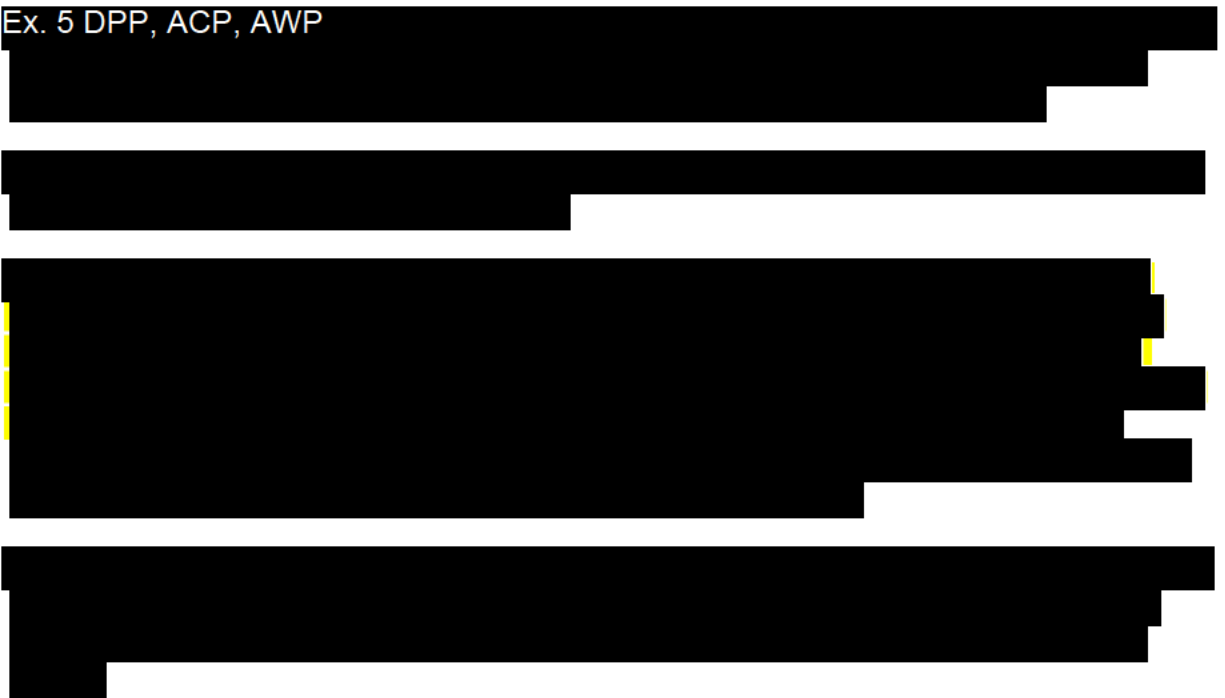
---

Thanks to all of you for your quick and thorough assistance last week regarding the recent (Aug. 8) FOIA request from Chris Horner/CEI that is noted in the subject line above.

I have attached another copy of that FOIA request.

Pat –

Ex. 5 DPP, ACP, AWP



Cindy  
564-2690

---

**From:** Chris Horner [mailto:CHorner@cei.org]  
**Sent:** Wednesday, September 11, 2013 2:50 PM  
**To:** Anderson, Cindy  
**Subject:** RE: FOIA request EPA-HQ-2013-009249

Dear Ms. Anderson,

We are not aware of any progress in the litigation you refer to, as discussed, below. We are not waiving and have not waived any rights in relation to 009249 or any other request by verbally characterizing to EPA and DoJ counsel that -009249 was to protect us against EPA's current approach of not providing the responsive records we requested in 006937, but instead providing certain responsive information from those records.

For that latter reason there does not appear to be any pending or potential resolution, as in that call we suggested resolution was possible after reviewing exemplar responsive records; as you note this was two weeks ago, and we have received no such records, nor an assurance of receiving such records, but only demurrer. In fact, it is reasonable to conclude that EPA still will not produce responsive records (as identified in the "Invoice Nos" on the spreadsheet EPA provided excerpting certain responsive information from those records).

Regardless, this interpretation or response below is unilateral and in error, please do not cease processing that request, and we plan to continue operating on the relevant timetable in protecting our appellate rights as regards 009249 consistent with our request date.

If you have any questions please do not hesitate to contact me.

Yours,

Christopher C. Horner Senior Fellow Competitive Enterprise Institute 1899 L St, NW 12th Floor Washington, DC, 20036 +1.202.262.4458 (M)

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Wed 9/11/2013 2:37 PM

To: Chris Horner

Subject: FOIA request EPA-HQ-2013-009249

Mr. Horner -

I am writing in regard to the telephone conversation of August 29 between Mark Nebeker, Assistant U.S. Attorney, and you (to which I was also a party) about one of the pending FOIA lawsuits for which you serve as plaintiff's counsel.

After receiving information responsive to your earlier FOIA request for phone bills related to Gina McCarthy's use of text messages over a three-year period, you submitted an additional FOIA request, noted by number in the subject line above.

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In these circumstances, I am writing now to let you know that processing of the more recent FOIA request regarding bills for Ms. McCarthy's text messages for two specified billing periods is now in abeyance, or tolled, pending potential resolution of the lawsuit related to the same information, that litigation being CEI v. EPA (13-1074, DDC).

I appreciate your acknowledging receipt of this message.

Cindy Anderson  
EPA/OGC  
(202) 564-2690


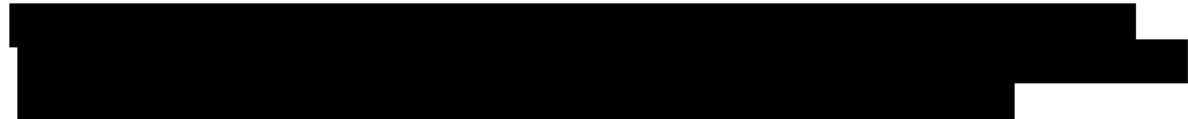
**From:** [Anderson, Cindy](#)  
**To:** [Hilton, Patricia](#); [Simms, Shavonne](#)  
**Cc:** [Miller, Kevin](#); [Gottesman, Larry](#)  
**Subject:** FW: FOIA request EPA-HQ-2013-009249  
**Date:** Wednesday, September 11, 2013 3:13:00 PM  
**Importance:** High

---

Please note –

Chris Horner's response to my email below indicates that he intends to proceed with the August 8 (or, alternatively, Aug. 21) FOIA request for which FOIAonline has created a Sept. 20 due date.

Ex. 5 DPP

Thanks!

Cindy  
564-2690

---

**From:** Chris Horner [mailto:CHorner@cei.org]  
**Sent:** Wednesday, September 11, 2013 2:50 PM  
**To:** Anderson, Cindy  
**Subject:** RE: FOIA request EPA-HQ-2013-009249

Dear Ms. Anderson,

We are not aware of any progress in the litigation you refer to, as discussed, below. We are not waiving and have not waived any rights in relation to 009249 or any other request by verbally characterizing to EPA and DoJ counsel that -009249 was to protect us against EPA's current approach of not providing the responsive records we requested in 006937, but instead providing certain responsive information from those records.

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Regardless, this interpretation or response below is unilateral and in error, please do not cease processing that request, and we plan to continue operating on the relevant timetable in protecting our appellate rights as regards 009249 consistent with our request date.

If you have any questions please do not hesitate to contact me.

Yours,

Christopher C. Horner Senior Fellow Competitive Enterprise Institute 1899 L St, NW 12th Floor Washington, DC, 20036 +1.202.262.4458 (M)

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Wed 9/11/2013 2:37 PM

To: Chris Horner

Subject: FOIA request EPA-HQ-2013-009249

Mr. Horner -

I am writing in regard to the telephone conversation of August 29 between Mark Nebeker, Assistant U.S. Attorney, and you (to which I was also a party) about one of the pending FOIA lawsuits for which you serve as plaintiff's counsel.

After receiving information responsive to your earlier FOIA request for phone bills related to Gina McCarthy's use of text messages over a three-year period, you submitted an additional FOIA request, noted by number in the subject line above.

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In these circumstances, I am writing now to let you know that processing of the more recent FOIA request regarding bills for Ms. McCarthy's text messages for two specified billing periods is now in abeyance, or tolled, pending potential resolution of the lawsuit related to the same information, that litigation being CEI v. EPA (13-1074, DDC).

I appreciate your acknowledging receipt of this message.

Cindy Anderson  
EPA/OGC  
(202) 564-2690

**From:** [Reilly, Tom](#)  
**To:** [Anderson, Cindy](#)  
**Subject:** FW: FW: update re Detailed Billing for Gina McCarthy (CEI v. EPA, 13-1074)  
**Date:** Monday, October 21, 2013 10:35:54 AM

---

Cindy,

See Tanika's answer below

Tom

---

**From:** DAVIS, TANIKA  
**Sent:** Monday, October 21, 2013 10:13 AM  
**To:** Reilly, Tom  
**Cc:** Clark, Dee  
**Subject:** RE: FW: update re Detailed Billing for Gina McCarthy (CEI v. EPA, 13-1074)

Good Morning Tom,

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks,

*Tanika Davis*

ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: [davis.tanika@epa.gov](mailto:davis.tanika@epa.gov)

~~~~~  
PLEASE NOTE If you require Mobile Device related assistance, please use the following contacts:
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov
All Other Locations - EPA Call Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

From: Reilly, Tom
Sent: Monday, October 21, 2013 8:54 AM
To: DAVIS, TANIKA
Subject: FW: update re Detailed Billing for Gina McCarthy (CEI v. EPA, 13-1074)

Tanika,

Could you give me a quick answer to the question in bold print below?

Tom

-----Original Message-----

From: Anderson, Cindy

Sent: Friday, October 18, 2013 3:42 PM

To: Reilly, Tom

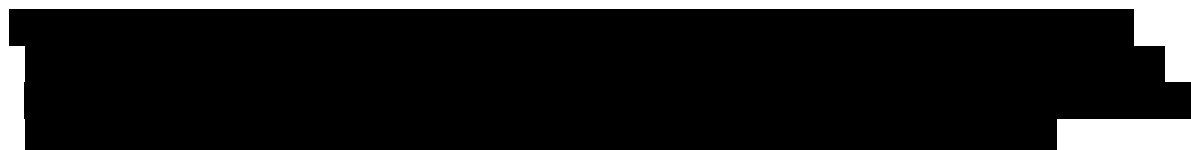
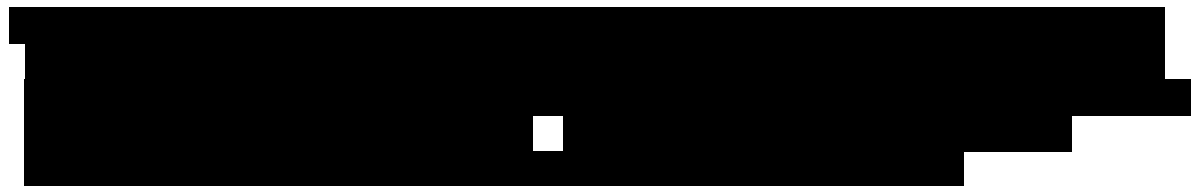
Subject: FW: update re Detailed Billing for Gina McCarthy (CEI v. EPA, 13-1074)

Importance: High

Tom - -

OK, I'm back and just as confused as ever.

(b) (5) DPP, (b) (5) ACP



Maybe another phone call early next week. I can't deal with this anymore today.

Thanks!

Cindy
564-2690

From: [Miller, Kevin](#)
To: [OGC GLO](#)
Subject: FW: GLO Bi-Weekly Agenda
Date: Tuesday, November 05, 2013 4:24:52 PM
Attachments: [GLO reg review template 110513.docx](#)

(b) (5) DPP, (b) (5) ACP

Kevin Miller | US EPA | Office of General Counsel | 1200 Pennsylvania Ave., NW | WJC North, Mail Code 2377A | Washington DC 20460 | phone: (202) 564-2691

From: Miller, Kevin
Sent: Tuesday, November 05, 2013 4:25 PM
To: OGC FRONT OFFICE
Subject: GLO Bi-Weekly Agenda

Kevin Miller | US EPA | Office of General Counsel | 1200 Pennsylvania Ave., NW | WJC North, Mail Code 2377A | Washington DC 20460 | phone: (202) 564-2691

From: [Reilly, Tom](#)
To: [Anderson, Cindy](#)
Subject: FW: Heads up on a New FOAI Assignment (EPA-HQ-2014-002006)
Date: Monday, January 06, 2014 11:48:12 AM
Attachments: [Clark Dolores \(Dee\).vcf](#)

Cindy,

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Tom

-----Original Message-----

From: Clark, Dee
Sent: Monday, January 06, 2014 11:37 AM
To: Dollison, Lawrence A.; Beaver, William; Weinstock, Larry; Slade, Reginald; Simmons, Joseph
Cc: DAVIS, TANIKA; Grantham, Jessica; Reilly, Tom
Subject: RE: Heads up on a New FOAI Assignment (EPA-HQ-2014-002006)

Hi Larry,

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks,

Dee Clark
WCF Service Manager for MD
ATPOC for 09 (ITS-ACT II)
Aternate PO for ITS-ACT II
ITIL v3 Foundation Level Certified
U. S. EPA | OEI | OTOP | EDSD | EPA West - 6312L clark.dee@epa.gov | 202-566-0890 office | 202-297-5756 cell

-----Original Message-----

From: Dollison, Lawrence A.
Sent: Monday, January 6, 2014 9:42 AM
To: Beaver, William; Clark, Dee; Weinstock, Larry; Slade, Reginald; Simmons, Joseph
Cc: DAVIS, TANIKA; Grantham, Jessica
Subject: FW: Heads up on a New FOAI Assignment (EPA-HQ-2014-002006)

EPA has received the attached FOIA from Chris Horner. It is a follow-up from an earlier FOIA concerning Gina's text bill. The bill showed that all of the people listed below received or sent texts to Gina. As a result Mr. Horner is asking for all the text messages, on EPA provided cell phones from the following people:

1) Joe Goffman, Senior Counsel OAR

2) Janet McCabe

3) Margo Oge, OTAQ (retired late 2012)

4) Cindy Huang, Staff Assistant To the Assistant Administrator

5) Scott Fulton, former EPA General Counsel

6) Steve Page, Director, OAQPS, Research Triangle Park (RTP)

7) Peter Tsirigotis, Director, Sector Policies and Programs Division, OAR:OAQPS, RTP

8) Mike Flynn, Director, Office of Radiation and Indoor Air, EPA HQ

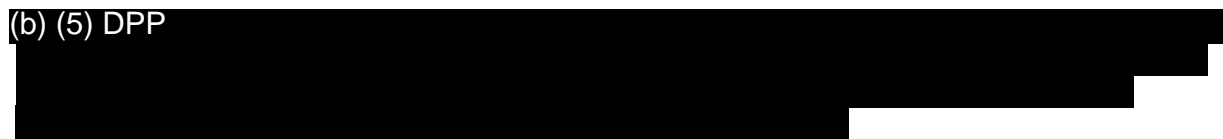
9) Bob Perciasepe

10) Curt Spalding, Regional Administrator EPA Region

11) Nancy Grantham, Director, EPA RI, Office of Public Affairs

12) Ira W. Leighton, former deputy RA, Region

(b) (5) DPP



Thanks
Larry Weinstock

Program Innovation Coordinator

Office of Air and Radiation

202-564-9226

From: [Anderson, Cindy](#)
To: [johnson, karen](#)
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 10:42:00 AM
Importance: High

Karen –

I look forward to talking with you soon about this ATI FOIA request.

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I will call you later this morning to discuss the matter.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Gottesman, Larry
Sent: Tuesday, April 30, 2013 12:21 PM
To: johnson, karen
Cc: Anderson, Cindy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Karen-

Can you provide Cindy an update.

Thanks

Larry F. Gottesman
National FOIA Officer
U.S. Environmental Protection Agency
Washington D.C. 20460

Office - 202 566 2162

Mobile - 202 689 4588

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 12:10 PM
To: Gottesman, Larry
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry –

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, April 30, 2013 11:56 AM
To: Anderson, Cindy; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP

[REDACTED]

Larry

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 11:06 AM
To: Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry et al. --

(b) (5) DPP, (b) (5) ACP

There's a link within this article to the (19-page!) FOIA request.

Thanks all!

Cindy
564-2690

From: Grady, Mary
Sent: Monday, April 29, 2013 9:15 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
Subject: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency "bullied" Battelle into ending the contract.

Conservative think tank American Tradition Institute (ATI) filed an April 25 [Freedom of Information Act \(FOIA\) request](#) seeking copies of all EPA Office of the Administrator and Office of Air & Radiation emails, instant messages and text messages sent from Jan. 2 through the present day that reference the new air group and Battelle.

Texas is also pressing EPA for answers about [Battelle's decision to end the contract](#) to provide services to the nascent Association of Air Pollution Control Agencies (AAPCA), a group that aims to give states technical help implementing EPA rules. "[W]e admonish the EPA not just for bullying Battelle into withdrawing from the AAPCA contract, but also for lack of communication with AAPCA directly," Texas said in an April 5 letter to EPA.

AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally

spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

Last month, Battelle dissolved the contract with AAPCA, a move that sources at the time said was a result of EPA pressuring Battelle by threatening its current and potential future contracts with the agency. Battelle at the time would not say what type of work the agency found to be in conflict with the AAPCA contract.

ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

An ATI source says the group filed the FOIA request to find out details of what the source calls "a pretty incredible example of 'gangster government'" that "involves EPA threatening Battelle with contractual retaliation if it continues to do consulting work for states opposed to EPA" regulations. The source is also seeking more information on other examples of people "similarly shaken down" by EPA and may file FOIA requests for those records as well.

Battelle has entered into EPA contracts in recent years worth \$239 million, including more than \$147 million for work in Ohio, where the organization is based, according to *USASpending.gov*.

EPA headquarters and Region V spokespeople last month declined to comment on which contract was in conflict, saying they did not have enough information to make a determination. Battelle declined to provide specifics, though Ohio's Nally told *Inside EPA* March 19 that he would continue to seek more information.

State officials were quick to warn the Battelle conflict could have consequences for other contractors that do work for EPA and for groups that have relationships with the agency. And observers say it also raises question about the role of a contractor that signs a contract to do work for the agency and a recipient of EPA grant funds, given that the AAPCA member states were to have paid Battelle for its work in part through EPA grants.

Additionally, an American Petroleum Institute source tells *Inside EPA* that the trade group contracted with Battelle to conduct a hydraulic fracturing study. "How is it that they could work on that report for us, and they can't work for states to give them advice on air issues? How is that a conflict? It smells."

The TCEQ letter, signed by Chairman Bryan Williams, also asks whether EPA has made similar conflict-of-interest determinations for other multi-jurisdictional organizations, including AAPCA rival NACAA.


"Does NACAA have any contractors that also have contracts with EPA?" the letter asks. "How will this decision be

consistently applied to other organizations and contractors?"

Further, it seeks information on what agency official made the Battelle contract decision and what authority it was executed under. And it seeks guidance from EPA for how AAPCA should choose a future contractor in light of the Battelle situation. EPA has not yet responded to the letter, a TCEQ spokesman says. -- *Dawn Reeves* (dreeves@iwpnews.com) This e-mail address is being protected from spambots. You need JavaScript enabled to view it)

From: [Hammitt, Jennifer](#)
To: [Newton, Jonathan](#)
Cc: [Miller, Kevin](#)
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Monday, April 29, 2013 9:23:28 AM

It looks like we have a new ATI request --(b) (5) DPP, (b) (5) ACP
[REDACTED] would have come in Thursday.

Jennifer Hammitt
U.S. Environmental Protection Agency
Office of General Counsel, General Law Office
1200 Pennsylvania Ave N.W., MC 2377A
Washington, D.C. 20460
(202) 564-5097 

From: Grady, Mary
Sent: Monday, April 29, 2013 9:14 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
Subject: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency "bullied" Battelle into ending the contract.

Conservative think tank American Tradition Institute (ATI) filed an April 25 [Freedom of Information Act \(FOIA\) request](#) seeking copies of all EPA Office of the Administrator and Office of Air & Radiation emails, instant messages and text messages sent from Jan. 2 through the present day that reference the new air group and Battelle.

Texas is also pressing EPA for answers about [Battelle's decision to end the contract](#) to provide services to the nascent Association of Air Pollution Control Agencies (AAPCA), a group that aims to give states technical help implementing EPA rules. "[W]e admonish the EPA not just for bullying Battelle into withdrawing from the AAPCA contract, but also for lack of communication with AAPCA directly," Texas said in an April 5 letter to EPA.

AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

Last month, Battelle dissolved the contract with AAPCA, a move that sources at the time said was a result of EPA pressuring Battelle by threatening its current and potential future contracts with the agency. Battelle at the time would not say what type of work the agency found to be in conflict with the AAPCA contract.

ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

An ATI source says the group filed the FOIA request to find out details of what the source calls "a pretty incredible example of 'gangster government'" that "involves EPA threatening Battelle with contractual retaliation if it continues to do consulting work for states opposed to EPA" regulations. The source is also seeking more information on other examples of people "similarly shaken down" by EPA and may file FOIA requests for those records as well.

Battelle has entered into EPA contracts in recent years worth \$239 million, including more than \$147 million for work in Ohio, where the organization is based, according to *USASpending.gov*.

EPA headquarters and Region V spokespeople last month declined to comment on which contract was in conflict, saying they did not have enough information to make a determination. Battelle declined to provide specifics, though Ohio's Nally told *Inside EPA* March 19 that he would continue to seek more information.

State officials were quick to warn the Battelle conflict could have consequences for other contractors that do work for EPA and for groups that have relationships with the agency. And observers say it also raises question about the role of a contractor that signs a contract to do work for the agency and a recipient of EPA grant funds, given that the AAPCA member states were to have paid Battelle for its work in part through EPA grants.

Additionally, an American Petroleum Institute source tells *Inside EPA* that the trade group contracted with Battelle to conduct a hydraulic fracturing study. "How is it that they could work on that report for us, and they can't work for states to give them advice on air issues? How is that a conflict? It smells."

The TCEQ letter, signed by Chairman Bryan Williams, also asks whether EPA has made similar conflict-of-interest determinations for other multi-jurisdictional organizations, including AAPCA rival NACAA.

"Does NACAA have any contractors that also have contracts with EPA?" the letter asks. "How will this decision be consistently applied to other organizations and contractors?"

Further, it seeks information on what agency official made the Battelle contract decision and what authority it was executed under. And it seeks guidance from EPA for how AAPCA should choose a future contractor in light of the Battelle situation. EPA has not yet responded to the letter, a TCEQ spokesman says. -- Dawn Reeves (dreeves@iwpnews.com This e-mail address is being protected from spambots. You need JavaScript enabled to view it)

From: [johnson, karen](#)
To: [Anderson, Cindy](#)
Cc: [Gottesman, Larry](#); [Jackson, Mildred](#)
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 11:12:01 AM
Importance: High

FYI - (b) (5) DPP, (b) (5) ACP
[REDACTED]

From: Jackson, Mildred
Sent: Tuesday, April 30, 2013 6:01 PM
To: johnson, karen
Cc: Koehler, Alfred; Floyd-Coleman, Cynthia
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Good evening Al and Karen. Karen on page 2 of the FOIA request at the top of the page states that the requester is seeking "(a) copies of all emails, instant messages and text messages, (b) sent to or from the EPA Office of the Administrator and the Office of Air and Radiation, (c) dated, sent or received from January 2, 2013 to the date you process the request, inclusive, (d) that use "AAPCA" and "Battelle". (b) (5) DPP, (b) (5) ACP
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respectfully,

Mildred A. Jackson
Administrative Freedom of Information Specialist
Policy, Training, and Oversight Division
Management Support Service Center
FOIA Team (3802R)
email: jackson.mildred@epa.gov
telephone: (202) 564-4359
fax: (202) 565-2553

From: Jackson, Mildred

Sent: Tuesday, April 30, 2013 5:21 PM
To: johnson, karen
Cc: Koehler, Alfred; Floyd-Coleman, Cynthia
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respectfully,

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email: jackson.mildred@epa.gov
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fax: (202) 565-2553

From: johnson, karen
Sent: Tuesday, April 30, 2013 1:32 PM
To: Koehler, Alfred
Cc: Jackson, Mildred
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Good afternoon

Can your provide Cindy with an update?

From: Gottesman, Larry
Sent: Tuesday, April 30, 2013 12:21 PM

To: johnson, karen
Cc: Anderson, Cindy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Karen-

Can you provide Cindy an update.

Thanks

Larry F. Gottesman
National FOIA Officer
U.S. Environmental Protection Agency
Washington D.C. 20460

Office - 202 566 2162
Mobile - 202 689 4588

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 12:10 PM
To: Gottesman, Larry
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry –

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]

[Redacted] [Redacted]
[Redacted]

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, April 30, 2013 11:56 AM
To: Anderson, Cindy; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP
[Redacted]

Larry

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 11:06 AM
To: Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry et al. - -

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted] ?

There's a link within this article to the (19-page!) FOIA request.

Thanks all!

Cindy
564-2690

From: Grady, Mary
Sent: Monday, April 29, 2013 9:15 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
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From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#)
Subject: FW: New FOIA ASsignment - EPA-HQ-2013-009249
Date: Wednesday, August 28, 2013 9:57:39 AM
Attachments: [EPA-HQ-2013-009249.pdf](#)
[Horner \(McCarthy Phone PDA Bills Dec 23, 2009, July 5, 2011\)\(a\).pdf](#)
[Horner \(McCarthy Phone PDA Bills Dec 23, 2009, July 5, 2011\)\(b\).pdf](#)
[Horner \(McCarthy Phone PDA Bills Dec 23, 2009, July 5, 2011\)\(c\).pdf](#)

Requester has attachments

I want to make sure you know about this. (b) (5) DPP, (b) (5) ACP
[REDACTED]

Larry

From: Faulkner, Martha
Sent: Tuesday, August 27, 2013 4:00 PM
To: Simms, Shavonne
Cc: Weinstock, Larry; Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina; Meekins, Tanya
Subject: New FOIA ASsignment - EPA-HQ-2013-009249

Hello Shavonne,

This is an email to let you know that you have a FOIA online assignment for the attached case file.
Thanks

Martha

Mark —

Cindy Anderson
(202) 564-2690

We agree with this, with a change of one word. We would like to insert the word "FOIA" before the words "claims or actions" in this sentence,

Plaintiff, thus, agrees to the dismissal of this action as set forth herein and further agrees not to bring any other claims or actions based in whole or in part on the FOIA requests at issue in this action

So that it reads:

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Of course, we agree to the dismissal of with prejudice of this action, contained earlier in the stipulation, which we agree bars us from bringing any lawsuit, or claim or action, alleging that EPA violated FOIA through its response to the two FOIA requests at issue in this case (such as HQ-2013-005618 and HQ-2013-006937). We recognize that's the whole point of dismissing the lawsuit **with** prejudice: to completely bar such claims or actions.

But we don't want to suggest that materials obtained through EPA's **responses to**, or **compliance with** these requests (as opposed to **violations of FOIA**) somehow can never be mentioned or be admissible (for example, as circumstantial evidence of something, like an agency activity) in some future legal proceeding. By adding "FOIA" before claims (since FOIA only makes violations actionable, not compliance with it), we hope to make this clear beyond doubt. (We think this is what is already intended by the existing language, but we want to be absolutely certain).

From: Hans Bader
Sent: Wednesday, January 29, 2014 7:03 PM
To: 'Nebeker, Mark (USADC)'
Cc: Anderson.cindy@epa.gov
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

I think this looks OK. I hope to get final confirmation from my colleagues soon.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 6:39 PM
To: Hans Bader
Cc: Anderson.cindy@epa.gov
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Hans:

This is just a draft and will need final OK from the agency and my Deputy Chief, but what do you think?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 5:10 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Sure, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
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To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. I just did a stipulation settling another FOIA case, do you want me to write it up?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 4:30 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Yes, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:29 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Still want me to confer on this? I just saw it.

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
To: Nebeker, Mark (USADC)
Cc: Sam Kazman
Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. *See Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Wednesday, January 29, 2014 5:08:00 PM
Attachments: [image001.png](#)
[CEIII Mem Ct.ord.pdf](#) Requester has attachment
Importance: High

Good News!

Mark Nebeker, AUSA representing EPA in this FOIA lawsuit, has negotiated a settlement in the billing for text messages case they filed.

Ex. 5 DPP, ACP, AWP

Thanks for all you've been doing on this. (b) (5) DPP, (b) (5) ACP

Cindy Anderson
(202) 564-2690

From: Minoli, Kevin
Sent: Wednesday, January 29, 2014 4:59 PM
To: Anderson, Cindy
Cc: Miller, Kevin
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

(b)(5) AWP

Kevin S. Minoli
Acting Principal Associate General Counsel
Office of General Counsel
Main Office Line: 202-564-8064
Direct Dial: 202-564-5551

From: Anderson, Cindy
Sent: Wednesday, January 29, 2014 4:57 PM
To: Minoli, Kevin
Cc: Miller, Kevin
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Importance: High

Kevin -

(b) (5) DPP, (b) (5) ACP

(?).

- _____
- _____

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

1. [REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

Thanks!

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:28 PM
To: Kelly, Lynn
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
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202-331-2278

From: [Nebeker, Mark \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Thursday, January 30, 2014 9:36:29 AM
Attachments: [image001.png](#)

Ex. 5 ACP, AWP

From: Hans Bader [mailto:HBader@cei.org]
Sent: Wednesday, January 29, 2014 8:02 PM
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Cc: Anderson.cindy@epa.gov; Chris Horner
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Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. *See Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#)
Subject: FW: You are requested to search for responsive documents
Date: Tuesday, April 16, 2013 9:55:40 AM
Attachments: [Discovery061710.doc](#)
[HQ-FOI-01058-12 ATI Request.tif](#)
[HQ-FOI-01052-12 ATI Request.tif](#)

Requester has attachments, first attachment not-responsive

Cindy,

(b) (5) DPP, (b) (5) ACP

Thanks
Larry

From: Weinstock, Larry
Sent: Monday, April 08, 2013 4:31 PM
To: Mccarthy, Gina; McCabe, Janet; Shaw, Betsy; Goffman, Joseph; Beauvais, Joel; Ketcham-Colwill, Nancy; Millett, John; Hamilton, Sabrina; Jones, Jim; Flynn, Mike; Johnson, Barnes; Guerriero, Margaret; Craig, Beth
Cc: Dollison, Lawrence A.
Subject: You are requested to search for responsive documents

We have received two related FOIA requests from the Environmental Law Center at the American Traditions Institute (attached). Ex. 5 DPP, AWP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Ex. 5 DPP, AWP

-

Thanks you for your cooperation. We are requesting that you complete the search by COB next Friday, April 19th.

If you have any questions or concerns please don't hesitate to contact me,

Larry Weinstock
202-564-9226

From: [Anderson, Cindy](#)
To: [Albright, Scott](#)
Subject: FW: bi-weekly items
Date: Monday, September 09, 2013 3:32:00 PM

Oops –

I forgot to list my 3rd active lawsuit: [PacifiCorps v. EPA](#), (13-2187, D. Co.) ANSWER due Sept. 18.

Cindy
564-2690

From: Anderson, Cindy
Sent: Monday, September 09, 2013 3:07 PM
To: Albright, Scott; OGC GLO ILPG
Subject: RE: bi-weekly items

Here are a few items for Wed Bi-Weekly, the first two of which Kevin Miller has suggested be among the issues to be discussed:

E [REDACTED]
X [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
P [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
D [REDACTED]
[REDACTED]

We can also report, along with case status that's listed,
another release of responsive documents (on Sept. 3) in [ATI v. EPA](#) (13-112) re "Sierra Club"
etc.; next release in that case will be Oct. 1;
and CEI v. EPA (13-1074) has court ordered Joint Proposed Briefing Schedule due Sept. 19.

Thanks!

Cindy
564-2690

From: Albright, Scott
Sent: Monday, September 09, 2013 2:43 PM
To: OGC GLO ILPG
Subject: my status tomorrow & bi-weekly items

Hello everyone,

Couple quick things:

- (1) I'll be working from an Alternative Work Location tomorrow but will be reachable by phone (b) (6) or by email during my normal work hours, 8:30 a.m. to 6:00 p.m.
- (2) Please send me any items for Wednesday's **bi-weekly** and any updates to the litigation calendar by tomorrow (Tuesday) at 12 noon.

Thanks,

Scott Albright
U.S. EPA
Office of General Counsel
Information Law Practice Group
(202) 564-2884

(b) (5) DPP, (b) (5) ACP

I can talk with you about it later this evening (or sometime tomorrow since I'm leaving the office at 4:45 today).

Cindy
564-2690

From: Weinstock, Larry
Sent: Thursday, July 25, 2013 1:54 PM
To: Anderson, Cindy
Subject: FW: phone bill FOIA response and Q&As

FYI

From: Ketcham-Colwill, Nancy
Sent: Thursday, July 25, 2013 1:53 PM
To: Minoli, Kevin; Goffman, Joseph; Reynolds, Thomas; Johnson, Alisha
Cc: Weinstock, Larry; Miller, Kevin
Subject: phone bill FOIA response and Q&As

Ex. 5 DPP, ACP, AWP

S!

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: FW: phone bill FOIA response and Q&As
Date: Wednesday, August 21, 2013 12:50:00 PM
Attachments: [FOIA.Response.6937.2.clean.docx](#)
[202-596-0247 - Text bill - Jul 09-Jun 12.pdf](#)
[FOIA.text message QA.7-25.docx](#)
Importance: High

Ex. 5 DPP, ACP, AWP
Requester has second attachment
Ex. 5 DPP ACP AWP

Larry –

I need to talk with you later this afternoon, if possible (after 1:30 conference call w/Regional Attorneys; that's usually over by 3pm), Ex. 5 ACP, AWP

I'll forward to you separately, shortly, the email message from Horner to Nebeker yesterday.

Cindy
564-2690

From: Anderson, Cindy
Sent: Tuesday, August 20, 2013 2:50 PM
To: 'mark.nebeker@usdoj.gov'
Subject: FW: phone bill FOIA response and Q&As

Ex. 5 DPP, ACP, AWP

[Redacted]

[Redacted]

[Redacted]

I can talk with you about it later this evening (or sometime tomorrow since I'm leaving the office at 4:45 today).

Cindy
564-2690

From: Weinstock, Larry
Sent: Thursday, July 25, 2013 1:54 PM
To: Anderson, Cindy
Subject: FW: phone bill FOIA response and Q&As

FYI

From: Ketcham-Colwill, Nancy
Sent: Thursday, July 25, 2013 1:53 PM
To: Minoli, Kevin; Goffman, Joseph; Reynolds, Thomas; Johnson, Alisha
Cc: Weinstock, Larry; Miller, Kevin
Subject: phone bill FOIA response and Q&As

Ex. 5 DPP, ACP, AWP



From: [Nguyen, Quoc](#)
To: [OGC GLO](#)
Subject: GLO Reg Review Agenda
Date: Wednesday, December 04, 2013 4:22:04 PM
Attachments: [GLO reg review 12-4-13 ILPG.DOCX](#)

(b) (5) DPP, (b) (5) ACP

Attached.

Thanks,
Quoc

Quoc P. Nguyen
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20010
202-564-6343

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: [Nguyen, Quoc](#)
To: [OGC GLO ILPG](#)
Subject: GLO reg review from ILPG
Date: Wednesday, December 04, 2013 2:26:00 PM
Attachments: [GLO reg review 12-4-13 ILPG.DOCX](#)

(b) (5) DPP, (b) (5) ACP

Attached. Last call. I need to send this out by 3:00.

Thanks,
Quoc

Quoc P. Nguyen
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20010
202-564-6343

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: [Anderson, Cindy](#)
To: Mark.Nebeker@usdoj.gov
Subject: OK! to Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Wednesday, January 29, 2014 5:02:00 PM
Attachments: [image001.png](#)
Importance: High

Mark –

A million thanks!

Ex. 5 AWP

Cindy Anderson
(202) 564-2690

From: Minoli, Kevin
Sent: Wednesday, January 29, 2014 4:59 PM
To: Anderson, Cindy
Cc: Miller, Kevin
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

(b)(5) AWP

Kevin

Kevin S. Minoli
Acting Principal Associate General Counsel
Office of General Counsel
Main Office Line: 202-564-8064
Direct Dial: 202-564-5551

From: Anderson, Cindy
Sent: Wednesday, January 29, 2014 4:57 PM
To: Minoli, Kevin
Cc: Miller, Kevin
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Importance: High

Kevin -

Ex. 5 DPP, ACP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Ex. 5 DPP, ACP, AWP

I will call Mark Nebeker later this evening after I speak with you.
Please let me know if there's more information that would be useful in your consideration.

Thanks!

Cindy Anderson
(202) 564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:28 PM
To: Kelly, Lynn
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Ex. 5 AWP

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
To: Nebeker, Mark (USADC)
Cc: Sam Kazman
Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the

hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. *See Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

From: [Anderson, Cindy](#)
To: [Whitaker, Claire \(USADC\)](#)
Cc: [Weinstock, Larry](#); [Newton, Jonathan](#)
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and "ALA")
Date: Tuesday, January 07, 2014 5:22:00 PM
Attachments: [Cover Ltr 12.11.13 \(6th production\).doc](#)
[Final Redact-Release \(12.16\) - 47 docs Redacted.pdf](#)
[FINAL Release in Full \(177 docs\) 12.16.13 Redacted.pdf](#)

Requester has attachments

Claire -

Ex. 5 AWP

Thanks to you all for all necessary assistance.
Please feel free to call to discuss if you like.

Ex. 5 AWP

Cindy Anderson
(202) 564-2690

From: Whitaker, Claire (USADC) [<mailto:Claire.Whitaker@usdoj.gov>]
Sent: Tuesday, December 24, 2013 12:40 PM
To: Anderson, Cindy
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and "ALA")

Sorry Cindy,

I have been away for 10 days. Ex. 5 AWP Have a happy holiday.

Claire

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Thursday, December 12, 2013 5:59 PM
To: Whitaker, Claire (USADC)
Cc: Rowan, Reginald (USADC)
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and "ALA")

Thanks Claire –

Ex. 5 AWP

Ex. 5 AWP

Cindy
564-2690

From: Whitaker, Claire (USADC) [<mailto:Claire.Whitaker@usdoj.gov>]
Sent: Thursday, December 12, 2013 5:32 PM
To: Anderson, Cindy
Cc: Rowan, Reginald (USADC)
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and "ALA")

Ex. 5 AWP . I'll be out until 12/23. If you don't want to contact Reggie Rowan at 202-252-2532 and he will arrange to have an AUSA involved. He is also cc'd on the email.
Claire

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Wednesday, December 11, 2013 5:09 PM
To: Whitaker, Claire (USADC)
Subject: ATI v. EPA (13-112) ("Sierra Club" and "ALA")

Claire –

Attached is the draft cover letter to Chris Horner for production that is due next Monday, Dec. 16.

(My computer is on strike today, so I've been w/o computer services most of the afternoon, even after 2 IT technicians have tried to work on it.)

Ex. 5 AWP

Ex. 5 AWP

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Schmitt, Addy \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and/or "Am. Lung Assn")
Date: Monday, July 29, 2013 1:19:57 PM

Oh, good, I'm glad you connected. Yes, my new number is below.

Addy R. Schmitt

Assistant United States Attorney

Civil Division

U.S. Attorney's Office for the District of Columbia

501 3rd Street, NW | 4th Floor | Washington, D.C. 20530

☎ 202-252-2530 | 🖨 202-514-8780 | ✉ addy.schmitt@usdoj.gov

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, July 29, 2013 12:09 PM
To: Schmitt, Addy (USADC)
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and/or "Am. Lung Assn")

Thanks Addy –

Mark and I talked with Chris Horner this morning to get an extension – Mark is out-of-town beginning tomorrow for 3 weeks!

Do you have a new phone number, too?

cindy

From: Schmitt, Addy (USADC) [<mailto:Addy.Schmitt@usdoj.gov>]
Sent: Monday, July 29, 2013 12:07 PM
To: Anderson, Cindy
Subject: RE: ATI v. EPA (13-112) ("Sierra Club" and/or "Am. Lung Assn")

Cindy,

Thanks for the update! The new case has been assigned to Mark Nebeker (so you're in excellent hands)! Let me know if you need contact info.

Addy

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Friday, July 26, 2013 10:57 AM
To: Schmitt, Addy (USADC)
Subject: ATI v. EPA (13-112) ("Sierra Club" and/or "Am. Lung Assn")

Addy –

Ex. 5 DPP,

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Thanks!
Cindy
(202) 564-2690

From: [Minoli, Kevin](#)
To: [Anderson, Cindy](#); [Bloomgren, David](#)
Cc: [Miller, Kevin](#)
Subject: RE: ATI v. EPA (13-112) ["Sierra Club" & "ALA"]
Date: Friday, December 13, 2013 4:35:15 PM

Ex. 5 DPP,

Kevin S. Minoli
Acting Principal Associate General Counsel
Office of General Counsel
Main Office Line: 202-564-8064
Direct Dial: 202-564-5551

From: Anderson, Cindy
Sent: Friday, December 13, 2013 4:34 PM
To: Minoli, Kevin; Bloomgren, David
Cc: Miller, Kevin
Subject: RE: ATI v. EPA (13-112) ["Sierra Club" & "ALA"]

Ex. 5 DPP, AWP

Cindy
564-2690

From: Minoli, Kevin
Sent: Friday, December 13, 2013 4:33 PM
To: Anderson, Cindy; Bloomgren, David
Cc: Miller, Kevin
Subject: RE: ATI v. EPA (13-112) ["Sierra Club" & "ALA"]

Thanks. **Ex. 5 DPP, AWP**

Kevin S. Minoli
Acting Principal Associate General Counsel
Office of General Counsel
Main Office Line: 202-564-8064
Direct Dial: 202-564-5551

From: Anderson, Cindy
Sent: Friday, December 13, 2013 4:31 PM
To: Minoli, Kevin; Bloomgren, David
Cc: Miller, Kevin
Subject: RE: ATI v. EPA (13-112) ["Sierra Club" & "ALA"]

Thanks all.

Ex. 5 DPP, AWP

564-2690

Thanks, Cindy. Ex. 5 DPP, AWP

Ex. 5 DPP, ACP, AWP

[illegible]

Ex. 5 DPP, ACP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

(b)(5) AWP, ACP, DP





Thanks Claire!

Cindy
564-2690

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Tuesday, November 26, 2013 4:49 PM
To: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074)

Mark –

(b)(5) AWP, ACP, DP



As ever, thanks so much for your patience in this and other matters on behalf of EPA!
(and Happy Thanksgiving!)

Cindy
564-2690




From: Anderson, Cindy
Sent: Tuesday, November 26, 2013 10:23 AM
To: Nguyen, Quoc; Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074)

Mark –

Ex. 5



(b)(5) AWP, ACP, DP



(b)(5) AWP, ACP, DP

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Chris Horner <CHorner@cei.org>
Sent: Tuesday, November 26, 2013 10:17 AM
To: Nebeker, Mark (USADC)
Cc: Anderson, Cindy; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA (13-1074)

Ok Mark, take that time, and we would like the same but not counting the holiday period. So, you take the 11 days and we will take that, plus the week 'off', or 18 days. Does that work for you? (Btw Cindy, I never was provided the November production in that ATI case despite EPA claiming otherwise, and as I gave informed them twice; it also still was not at FOIAOnline as of yesterday, FYI. Since it us mentioned here).

Best,
Chris Horner

Sent from my iPhone

On Nov 25, 2013, at 4:55 PM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

<image001.png>

I am forced to ask for an additional extension of time to get the summary judgment motion filed in the above civil action. As, I believe, you know from our earlier discussions, the agency has located certain records that it intends to release (with redactions) in the case. Due to many competing issues that have arisen (before and after the government shutdown) the agency does not believe it can get to you the redacted production in advance of December 6, 2013. I also must participate in depositions in an unrelated civil action that was assigned to me late in the discovery process. That case also required that my client supplement the discovery responses this week. My agency counsel has also been required to assist in a production in another case that I believe you are handling (ATI v. EPA) which involves a document production next on December 15, 2013. I must also complete a motion and opposition in the Court of Appeals next week and be responsible for emergency matters should any motions for a temporary restraining orders be filed next week. In short, we are trying to respond properly in your case, but have many competing responsibilities.

May I have your consent to an extension of time to file our dispositive motion in this case on December 17, 2013 (a 2-week extension)? I am certainly willing to provide you whatever time you reasonably need to respond to the motion.

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Tuesday, November 12, 2013 4:50 PM
To: Nebeker, Mark (USADC)
Cc: Hans Bader; Sam Kazman; Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074)

We can consider CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training resolved.

Best,
Chris Horner

On 11/12/13 4:32 PM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

<image001.png>

Mr. Horner:

I am attempting to figure out whether we have any issues remaining as to CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training. Can you tell me whether we can put that one behind us?

From: [Anderson, Cindy](#)
To: [Schmitt, Addy \(USADC\)](#)
Subject: RE: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay
Date: Friday, October 18, 2013 2:27:00 PM

Thanks Addy –

(b) (6)

We can wait to talk next week. Sorry we all – and anybody that's still sane - has to deal with the ATI-boys.

Cindy
564-2690

From: Schmitt, Addy (USADC) [<mailto:Addy.Schmitt@usdoj.gov>]
Sent: Friday, October 18, 2013 2:13 PM
To: Anderson, Cindy
Subject: RE: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

Cindy,

Thank you. Sorry I missed your call. (b) (5) ACP, (b) (5) AWP

(b) (6)

Let me know if we need to talk today – it's pretty crazy and I would prefer to talk next week unless we need to touch base today.

Addy

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Friday, October 18, 2013 12:00 PM
To: Schmitt, Addy (USADC)
Subject: RE: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

Addy –

(b) (5) ACP, (b) (5) AWP

(b)

AW

Meanwhile, the cover letter that's going out with production today is attached above.

(b) (6)

Cindy
564-2690

From: Schmitt, Addy (USADC) [<mailto:Addy.Schmitt@usdoj.gov>]
Sent: Thursday, October 17, 2013 5:48 PM
To: Anderson, Cindy
Subject: RE: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

Thank YOU, Cindy! I am still trying to dig my way out, but will try to call you tomorrow to touch base. (b) (6)

Thanks again and I look forward to catching up.
Addy

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Thursday, October 17, 2013 3:15 PM
To: Schmitt, Addy (USADC)
Subject: RE: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

Addy - -

Thanks so much for all you've been doing, are doing, and will continue to do on behalf of EPA (and from me, personally, as well).

(b)(5) AWP

(b)(5) AWP

[REDACTED]

[REDACTED]

[REDACTED]

-

(b) (6)

[REDACTED]

Cindy
564-2690

From: Schmitt, Addy (USADC) [<mailto:Addy.Schmitt@usdoj.gov>]
Sent: Monday, September 30, 2013 5:13 PM
To: Anderson, Cindy
Subject: FW: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

Cindy, FYI.

From: DCD_ECFNotice@dcd.uscourts.gov [mailto:DCD_ECFNotice@dcd.uscourts.gov]
Sent: Monday, September 30, 2013 4:57 PM
To: DCD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:13-cv-00112-RWR AMERICAN TRADITION INSTITUTE v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Motion to Stay

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered by Schmitt, Addy on 9/30/2013 at 4:56 PM and filed on 9/30/2013

Case Name: AMERICAN TRADITION INSTITUTE v. UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
**Case
Number:** [1:13-cv-00112-RWR](#)
Filer: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
**Document
Number:** [11](#)

Docket Text:

**[Consent MOTION to Stay Deadlines In the Event of a Lapse of Appropriations
by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY \(Schmitt, Addy\)](#)**

1:13-cv-00112-RWR Notice has been electronically mailed to:

Addy R. Schmitt addy.schmitt@usdoj.gov

Christopher Cochran Horner chornerlaw@aol.com

1:13-cv-00112-RWR Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/30/2013] [FileNumber=3779795-0]
[0fc97e7587f754856550c17f95db47f7b8081dea0d3cae33c825c0a888b42ffd9127
294944964affa65987a067485b3949af5abf8e195558e4487c9996a6f05e]]

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Date: Friday, February 28, 2014 11:38:00 AM

Larry –

Were you able to mail out this letter yet?
(just checking in case we get an appeal)

Thanks – and for all you're doing!

Cindy Anderson
(202) 564-2690

From: Weinstock, Larry
Sent: Tuesday, February 25, 2014 12:50 PM
To: Anderson, Cindy
Subject: Re: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Larry

Sent from my BlackBerry 10 smartphone.

From: Anderson, Cindy
Sent: Tuesday, February 25, 2014 11:49 AM
To: Weinstock, Larry
Cc: Miller, Kevin; Minoli, Kevin; Reilly, Tom
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Larry et al.

(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED]

[REDACTED]

Larry -

(b) (5) DPP, (b) (5) ACP [REDACTED] ?

Thanks!

Cindy Anderson
(202) 564-2690

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, February 20, 2014 1:59 PM
To: Weinstock, Larry; Reilly, Tom
Subject: FW: CEI FOIA (13-009249) August 8, 2013
Importance: High

Larry & Tom -

I just spoke with Kevin Minoli in OGC front office about this response.

2 important questions:

(b)(5) ACP, (b)(5) DP

Thanks!

Cindy Anderson
(202) 564-2690

-----Original Message-----

From: Anderson, Cindy
Sent: Wednesday, February 19, 2014 2:20 PM
To: Weinstock, Larry; Minoli, Kevin
Cc: McDermott, Marna; Miller, Kevin
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Thanks Larry.

(b) (5) DPP, (b) (5) ACP

?

Kevin -

(b) (5) DPP, (b) (5) ACP

Cindy Anderson
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Wednesday, February 19, 2014 2:02 PM
To: Anderson, Cindy; Miller, Kevin
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b)(5) ACP, (b)(5) DP

(b) (5) DPP, (b) (5) ACP

Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Wednesday, February 19, 2014 1:53 PM
To: Weinstock, Larry; Miller, Kevin
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Importance: High

Larry -

Kevin Miller is not in the office today (and might be out again tomorrow).

I mentioned this FOIA response to Kevin Minoli when he was in Lynn Kelly's office yesterday.

(b)(5) DP, (b)(5) ACP

Thanks!

Cindy Anderson
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Friday, February 14, 2014 5:31 PM
To: Weinstock, Larry; Anderson, Cindy; Miller, Kevin; Newton, Jonathan
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Importance: High

(b) (5) DPP, (b) (5) ACP

Thanks
Larry

-----Original Message-----

From: Weinstock, Larry
Sent: Friday, February 07, 2014 3:14 PM
To: Anderson, Cindy; Miller, Kevin; Newton, Jonathan
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP

Thanks
Larry

From: Weinstock, Larry
Sent: Friday, February 07, 2014 1:47 PM
To: Anderson, Cindy; Miller, Kevin
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP

Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 1:35 PM
To: Miller, Kevin
Cc: Weinstock, Larry
Subject: FW: CEI FOIA (13-009249) August 8, 2013
Importance: High

Kevin -

(b) (5) DPP, (b) (5) ACP

What do you think?

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#); [Newton, Jonathan](#)
Cc: [Ketcham-Colwill, Nancy](#)
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Date: Tuesday, October 29, 2013 10:36:40 AM

(b) (5) DPP, (b) (5) ACP

[Redacted]

Thanks
Larry

From: Anderson, Cindy
Sent: Tuesday, October 29, 2013 10:34 AM
To: Newton, Jonathan
Cc: Weinstock, Larry
Subject: CEI FOIA (13-009249) August 8, 2013
Importance: High

Larry & Jonathan –

(b) (5) DPP, (b) (5) ACP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Newton, Jonathan](#)
To: [Anderson, Cindy](#); [Weinstock, Larry](#); [Miller, Kevin](#)
Cc: [McDermott, Marna](#)
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Date: Friday, February 07, 2014 3:37:14 PM

The National FOIA Office asked that we remove their fax number from response letters. They are phasing-out the use of faxes.

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 3:16 PM
To: Weinstock, Larry; Miller, Kevin; Newton, Jonathan
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Thanks Larry -

I'll confer with Kevin Miller and others on Monday and let you know then.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Friday, February 07, 2014 3:11 PM
To: Anderson, Cindy; Miller, Kevin; Newton, Jonathan
Cc: McDermott, Marna
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks
Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 2:06 PM
To: Weinstock, Larry; Miller, Kevin
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Thanks Larry.

(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED] ?
[REDACTED]

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Friday, February 07, 2014 1:47 PM
To: Anderson, Cindy; Miller, Kevin
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 1:35 PM
To: Miller, Kevin
Cc: Weinstock, Larry
Subject: FW: CEI FOIA (13-009249) August 8, 2013
Importance: High

Kevin -

I talked w/Larry Weinstock/OAR this morning about this pending CEI FOIA request.

(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED]

What do you think?

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Thursday, February 06, 2014 12:37 PM
To: Anderson, Cindy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

When we talk we need to talk about this as well.

Thanks
Larry

From: Anderson, Cindy
Sent: Friday, November 22, 2013 4:39 PM
To: Weinstock, Larry
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Larry -

(b) (5) DPP, (b) (5) ACP
[REDACTED]

(b) (5) DPP, (b) (5) ACP

Thanks so much – I'll be in office next week, but only Monday and part of Tues & Wed.

Cindy
564-2690

From: Weinstock, Larry
Sent: Thursday, November 21, 2013 10:29 AM
To: Anderson, Cindy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

As you know OAR is supposed to be the lead for this can you send me the bills so I can send then to OA.

Thanks
Larry

From: Reilly, Tom
Sent: Thursday, November 21, 2013 10:26 AM
To: Weinstock, Larry
Cc: Hilton, Patricia
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Larry,

We've provided everything to Cindy some time ago

Tom

From: Weinstock, Larry
Sent: Thursday, November 21, 2013 10:18 AM
To: Reilly, Tom
Cc: Hilton, Patricia
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Tom,

Have you been able to find the bills?

Thanks,
Larry

From: Weinstock, Larry
Sent: Tuesday, October 29, 2013 10:45 AM
To: Reilly, Tom
Cc: Hilton, Patricia; Ketcham-Colwill, Nancy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Tom,

Please provide the bills referenced (and highlighted) below.

Many thanks,
Larry

From: Anderson, Cindy
Sent: Tuesday, October 29, 2013 10:40 AM
To: Weinstock, Larry; Newton, Jonathan
Cc: Ketcham-Colwill, Nancy
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks Larry!

(b) (5) DPP, (b) (5) ACP
[REDACTED]

I'll try to schedule a call with Larry & Jonathan
later this week)

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, October 29, 2013 10:37 AM
To: Anderson, Cindy; Newton, Jonathan
Cc: Ketcham-Colwill, Nancy
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks
Larry

From: Anderson, Cindy
Sent: Tuesday, October 29, 2013 10:34 AM
To: Newton, Jonathan
Cc: Weinstock, Larry
Subject: CEI FOIA (13-009249) August 8, 2013
Importance: High

Larry & Jonathan –


(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5) DPP, (b) (5) ACP

A large rectangular area of the document is completely redacted with black ink, covering approximately two lines of text.

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#); [Miller, Kevin](#); [Newton, Jonathan](#)
Cc: [McDermott, Marna](#)
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Date: Friday, February 07, 2014 3:11:54 PM
Attachments: [Response Letter phone bill.docx](#) (b) (5) DPP, (b) (5) ACP
[December 2009 Bill.pdf](#)
[December 2009 Bill.xlsx](#)
[July 2011Bill.pdf](#)
[July 2011Bill.xlsx](#)

(b) (5) DPP, (b) (5) ACP

Thanks
Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 2:06 PM
To: Weinstock, Larry; Miller, Kevin
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Thanks Larry.

(b) (5) DPP, (b) (5) ACP

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Friday, February 07, 2014 1:47 PM
To: Anderson, Cindy; Miller, Kevin
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP

Larry

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, February 07, 2014 1:35 PM
To: Miller, Kevin
Cc: Weinstock, Larry
Subject: FW: CEI FOIA (13-009249) August 8, 2013
Importance: High

Kevin -

I talked w/Larry Weinstock/OAR this morning about this pending CEI FOIA request.

(b) (5) DPP, (b) (5) ACP
[Redacted]

What do you think?

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Thursday, February 06, 2014 12:37 PM
To: Anderson, Cindy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

When we talk we need to talk about this as well.

Thanks
Larry

From: Anderson, Cindy
Sent: Friday, November 22, 2013 4:39 PM
To: Weinstock, Larry
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Larry –

(b) (5) DPP, (b) (5) ACP
[Redacted]

Thanks so much – I'll be in office next week, but only Monday and part of Tues & Wed.

Cindy
564-2690

From: Weinstock, Larry
Sent: Thursday, November 21, 2013 10:29 AM
To: Anderson, Cindy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

As you know OAR is supposed to be the lead for this can you send me the bills so I can send then to OA.

Thanks
Larry

From: Reilly, Tom
Sent: Thursday, November 21, 2013 10:26 AM
To: Weinstock, Larry
Cc: Hilton, Patricia
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Larry,

We've provided everything to Cindy some time ago

Tom

From: Weinstock, Larry
Sent: Thursday, November 21, 2013 10:18 AM
To: Reilly, Tom
Cc: Hilton, Patricia
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Tom,

Have you been able to find the bills?

Thanks,
Larry

From: Weinstock, Larry
Sent: Tuesday, October 29, 2013 10:45 AM
To: Reilly, Tom
Cc: Hilton, Patricia; Ketcham-Colwill, Nancy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Tom,

Please provide the bills referenced (and highlighted) below.

Many thanks,
Larry

From: Anderson, Cindy
Sent: Tuesday, October 29, 2013 10:40 AM
To: Weinstock, Larry; Newton, Jonathan
Cc: Ketcham-Colwill, Nancy
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks Larry!

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, October 29, 2013 10:37 AM
To: Anderson, Cindy; Newton, Jonathan
Cc: Ketcham-Colwill, Nancy
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks
Larry

From: Anderson, Cindy
Sent: Tuesday, October 29, 2013 10:34 AM
To: Newton, Jonathan
Cc: Weinstock, Larry
Subject: CEI FOIA (13-009249) August 8, 2013
Importance: High

Larry & Jonathan –

(b) (5) DPP, (b) (5) ACP
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Anderson, Cindy](#)
To: [Reilly, Tom](#)
Subject: RE: CEI FOIA (13-009249) August 8, 2013
Date: Tuesday, February 25, 2014 11:36:00 AM

Thanks Tom.

I can add that explanation to the letter I've just drafted.

Please let Tanika know I appreciate her help, too.

Cindy Anderson
(202) 564-2690

-----Original Message-----

From: Reilly, Tom
Sent: Tuesday, February 25, 2014 11:29 AM
To: Anderson, Cindy
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Cindy,

See Tanika's answer below. Let me know if you need more clarification

Tom

-----Original Message-----

From: DAVIS, TANIKA
Sent: Monday, February 24, 2014 6:07 PM
To: Reilly, Tom
Subject: RE: CEI FOIA (13-009249) August 8, 2013

Tom,

1. (b) (5) DPP, (b) (5) ACP



Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

~~~~~  
\*\*\*PLEASE NOTE\*\*\* If you require Mobile Device related assistance, please use the following contacts:  
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or [EZTech@epa.gov](mailto:EZTech@epa.gov) All Other Locations - EPA Call Center at 866-411-4EPA or [EPACALLCENTER@epa.gov](mailto:EPACALLCENTER@epa.gov)

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Reilly, Tom  
Sent: Monday, February 24, 2014 4:48 PM  
To: DAVIS, TANIKA  
Subject: FW: CEI FOIA (13-009249) August 8, 2013  
Importance: High

Tanika,

Can you answer the question below dealing with (b) (5) DPP, (b) (5) ACP

Tom

-----Original Message-----

From: Anderson, Cindy  
Sent: Monday, February 24, 2014 11:11 AM  
To: Weinstock, Larry; Reilly, Tom  
Subject: FW: CEI FOIA (13-009249) August 8, 2013  
Importance: High

Tom & Larry -

(b) (5) DPP, (b) (5) ACP

Thanks all!

Cindy Anderson  
(202) 564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Thursday, February 20, 2014 1:59 PM  
To: Weinstock, Larry; Reilly, Tom  
Subject: FW: CEI FOIA (13-009249) August 8, 2013  
Importance: High

Larry & Tom -

I just spoke with Kevin Minoli in OGC front office about this response.

2 important questions:

(1)(b) (5) DPP, (b) (5) ACP

Thanks!

Cindy Anderson  
(202) 564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Wednesday, February 19, 2014 2:20 PM  
To: Weinstock, Larry; Minoli, Kevin  
Cc: McDermott, Marna; Miller, Kevin  
Subject: FW: CEI FOIA (13-009249) August 8, 2013

Thanks Larry.

(b) (5) DPP, (b) (5) ACP

?

Kevin -

(b) (5) DPP, (b) (5) ACP

Cindy Anderson  
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry  
Sent: Wednesday, February 19, 2014 2:02 PM  
To: Anderson, Cindy; Miller, Kevin  
Cc: McDermott, Marna  
Subject: RE: CEI FOIA (13-009249) August 8, 2013

I fixed the excel files. I can't do it in pdf yet because I lost my adobe when my computer was upgraded.

(b) (5) DPP, (b) (5) ACP

Larry

-----Original Message-----

From: Anderson, Cindy  
Sent: Wednesday, February 19, 2014 1:53 PM  
To: Weinstock, Larry; Miller, Kevin  
Cc: McDermott, Marna  
Subject: RE: CEI FOIA (13-009249) August 8, 2013  
Importance: High

Larry -

Kevin Miller is not in the office today (and might be out again tomorrow).

I mentioned this FOIA response to Kevin Minoli when he was in Lynn Kelly's office yesterday.

(b) (5) DPP, (b) (5) ACP

Thanks!

Cindy Anderson  
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry  
Sent: Friday, February 14, 2014 5:31 PM  
To: Weinstock, Larry; Anderson, Cindy; Miller, Kevin; Newton, Jonathan  
Cc: McDermott, Marna  
Subject: RE: CEI FOIA (13-009249) August 8, 2013  
Importance: High

(b) (5) DPP, (b) (5) ACP

Thanks  
Larry

-----Original Message-----

From: Weinstock, Larry  
Sent: Friday, February 07, 2014 3:14 PM  
To: Anderson, Cindy; Miller, Kevin; Newton, Jonathan  
Cc: McDermott, Marna  
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP

Thanks  
Larry

From: Weinstock, Larry  
Sent: Friday, February 07, 2014 1:47 PM  
To: Anderson, Cindy; Miller, Kevin  
Subject: RE: CEI FOIA (13-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP

Larry

-----Original Message-----

From: Anderson, Cindy

Sent: Friday, February 07, 2014 1:35 PM

To: Miller, Kevin

Cc: Weinstock, Larry

Subject: FW: CEI FOIA (13-009249) August 8, 2013

Importance: High

Kevin -

I talked w/Larry Weinstock/OAR this morning about this pending CEI FOIA request.

(b) (5) DPP, (b) (5) ACP

What do you think?

Cindy Anderson

EPA/OGC

(202) 564-2690

---

**From:** [Anderson, Cindy](#)  
**To:** [Weinstock, Larry](#)  
**Subject:** RE: CEI FOIA (2013-009249) August 8, 2013  
**Date:** Tuesday, October 29, 2013 2:18:00 PM

---

OK – we can talk tomorrow.

Cindy  
564-2690

---

**From:** Weinstock, Larry  
**Sent:** Tuesday, October 29, 2013 2:14 PM  
**To:** Anderson, Cindy  
**Subject:** RE: CEI FOIA (2013-009249) August 8, 2013

(b) (5) DPP, (b) (5) ACP I will be out for the rest of the afternoon.

Larry

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, October 29, 2013 2:07 PM  
**To:** Weinstock, Larry  
**Subject:** FW: CEI FOIA (2013-009249) August 8, 2013

Larry –

(b) (5) DPP, (b) (5) ACP ?

I'll call you separately sometime later this afternoon, after my 2:30 call w/AUSA regarding CEI lawsuit about bills for text messages, to discuss the August 8 FOIA.

Thanks

Cindy  
564-2690

---

**From:** Wachter, Eric  
**Sent:** Tuesday, October 29, 2013 12:44 PM  
**To:** Anderson, Cindy  
**Cc:** Newton, Jonathan; Hope, Brian; Weinstock, Larry  
**Subject:** RE: CEI FOIA (2013-009249) August 8, 2013

Hello, Cindy,

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5) DPP, (b) (5) ACP

Thanks,  
Eric

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, October 29, 2013 10:34 AM  
**To:** Newton, Jonathan  
**Cc:** Weinstock, Larry  
**Subject:** CEI FOIA (13-009249) August 8, 2013  
**Importance:** High

Larry & Jonathan –

(b) (5) DPP, (b) (5) ACP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks!

Cindy Anderson  
EPA/OGC  
(202) 564-2690



**From:** [Hilton, Patricia](#)  
**To:** [Anderson, Cindy](#); [Simms, Shavonne](#)  
**Cc:** [McKenzie, Raymond](#)  
**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)  
**Date:** Wednesday, September 11, 2013 11:55:48 AM

---

Hi Cindy,

Tom Reilly is in OEI/OTOP/CBSS and is out of the office this week. Ray McKenzie is filling in for him.  
Thanks for the clarification!

Pat

**Patricia Hilton (Pat)**, Special Assistant  
Office of Technology Operations and Planning (OTOP)  
Office of Environmental Information (OEI)  
Office (202) 566-1636  
Fax (202) 566-0319

---

**From:** Anderson, Cindy  
**Sent:** Wednesday, September 11, 2013 11:54 AM  
**To:** Hilton, Patricia; Simms, Shavonne  
**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Thank you both.

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cindy  
564-2690

---

**From:** Hilton, Patricia  
**Sent:** Wednesday, September 11, 2013 11:48 AM  
**To:** Simms, Shavonne

**Cc:** Anderson, Cindy

**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

(b) (5) DPP, (b) (5) ACP

[REDACTED]  
[REDACTED]  
[REDACTED]. Pat

**Patricia Hilton (Pat)**, Special Assistant  
Office of Technology Operations and Planning (OTOP)  
Office of Environmental Information (OEI)  
Office (202) 566-1636  
Fax (202) 566-0319

---

**From:** Simms, Shavonne

**Sent:** Wednesday, September 11, 2013 10:54 AM

**To:** Hilton, Patricia

**Subject:** FW: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Hi Pat,

This FOIA needs to go to Customer & Business Support Staff (CBSS).

---

**From:** Floyd-Coleman, Cynthia

**Sent:** Wednesday, September 11, 2013 10:23 AM

**To:** Anderson, Cindy; Gottesman, Larry; Miller, Kevin

**Cc:** McKenzie, Raymond; Simms, Shavonne

**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Hi Cindy that's why I added Shavonne Simms to the email – she is the FOIA Coordinator for OEI.

Thanks

Cindy

---

**From:** Anderson, Cindy

**Sent:** Wednesday, September 11, 2013 10:16 AM

**To:** Floyd-Coleman, Cynthia; Gottesman, Larry; Miller, Kevin

**Cc:** McKenzie, Raymond; Simms, Shavonne

**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ?

Cindy  
564-2690

---

**From:** Floyd-Coleman, Cynthia  
**Sent:** Wednesday, September 11, 2013 10:14 AM  
**To:** Anderson, Cindy; Gottesman, Larry; Miller, Kevin  
**Cc:** McKenzie, Raymond; Simms, Shavonne  
**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Hi Cindy, according to FOIAonline, this request is already assigned to OTOP.

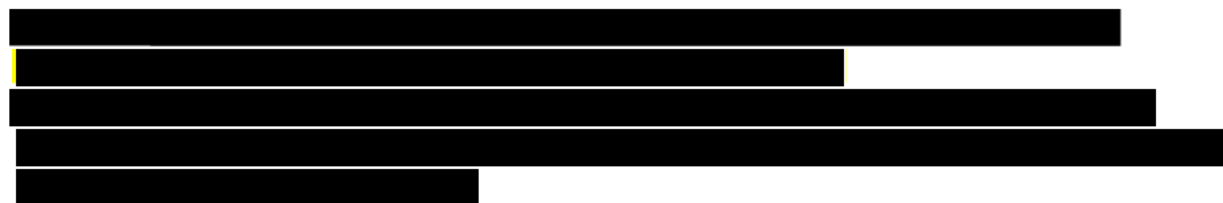
Thanks  
Cindy

---

**From:** Anderson, Cindy  
**Sent:** Wednesday, September 11, 2013 10:08 AM  
**To:** Gottesman, Larry; Miller, Kevin  
**Cc:** Floyd-Coleman, Cynthia; McKenzie, Raymond  
**Subject:** FW: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)  
**Importance:** High

Cindy –

(b) (5) DPP, (b) (5) ACP

A large block of text is redacted with black bars.A large block of text is redacted with black bars.

Larry G. –

(b) (5) DPP, (b) (5) ACP

A large block of text is redacted with black bars.

I have copied Raymond McKenzie and Tom Reilly on this message for I understand that Raymond is Acting this week in Tom's absence.

Raymond – please feel free to give me a call to discuss this FOIA request from Competitive Enterprise Institute.

Thanks all!

Cindy Anderson  
EPA/OGC  
(202) 564-2690

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 10, 2013 5:03 PM  
**To:** Floyd-Coleman, Cynthia; McKenzie, Raymond  
**Cc:** Simms, Shavonne; Hilton, Patricia  
**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Thanks Cindy.

(b) (5) DPP, (b) (5) ACP  
[REDACTED]

I can discuss it with Raymond and others tomorrow.

Cindy  
564-2690

---

**From:** Floyd-Coleman, Cynthia  
**Sent:** Tuesday, September 10, 2013 4:58 PM  
**To:** Anderson, Cindy; McKenzie, Raymond  
**Cc:** Simms, Shavonne; Hilton, Patricia  
**Subject:** RE: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

I'm confused. (b) (5) DPP, (b) (5) ACP  
[REDACTED]  
[REDACTED]  
[REDACTED]

Thank you  
Cindy

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 10, 2013 4:29 PM  
**To:** McKenzie, Raymond  
**Cc:** Floyd-Coleman, Cynthia  
**Subject:** FW: CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)  
**Importance:** High

Raymond –

I sent this to Tom Reilly but received an automatic response that he's out of the office until next week and to contact you instead.

(b) (5) DPP, (b) (5) ACP

Please feel free to call me if you'd like to discuss.

Cindy Anderson  
EPA/OGC  
(202) 564-2690

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 10, 2013 3:46 PM  
**To:** Floyd-Coleman, Cynthia  
**Cc:** Gottesman, Larry; Miller, Kevin; Reilly, Tom  
**Subject:** CEI FOIA Request #EPA-HQ-2013-009249 (August 8 or 21, 2013?)

Cynthia - -

Please note this recent FOIA request from CEI. (b) (5) DPP, (b) (5) ACP

Cindy  
564-2690

---

**From:** Weinstock, Larry  
**Sent:** Tuesday, September 10, 2013 2:49 PM  
**To:** Anderson, Cindy; Hilton, Patricia; Simms, Shavonne

**Cc:** Watkins, Harrell; Maher, Karen; Floyd-Coleman, Cynthia; Ketcham-Colwill, Nancy  
**Subject:** RE: FOIA Request #EPA-HQ-2013-009249

Yes

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 10, 2013 2:39 PM  
**To:** Weinstock, Larry; Hilton, Patricia; Simms, Shavonne  
**Cc:** Watkins, Harrell; Maher, Karen; Floyd-Coleman, Cynthia; Ketcham-Colwill, Nancy  
**Subject:** RE: FOIA Request #EPA-HQ-2013-009249  
**Importance:** High

Oops – my bad, I guess.

(b) (5) DPP, (b) (5) ACP

[REDACTED]

[REDACTED]

[REDACTED] ?

Cindy  
564-2690

---

**From:** Weinstock, Larry  
**Sent:** Tuesday, September 10, 2013 2:36 PM  
**To:** Anderson, Cindy; Hilton, Patricia; Simms, Shavonne  
**Cc:** Watkins, Harrell; Maher, Karen; Floyd-Coleman, Cynthia; Ketcham-Colwill, Nancy  
**Subject:** RE: FOIA Request #EPA-HQ-2013-009249

(b) (5) DPP, (b) (5) ACP

[REDACTED]

Thanks  
Larry Weinstock  
Program Innovation Coordinator  
Office of Air and Radiation  
202-564-9226

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 10, 2013 2:32 PM  
**To:** Hilton, Patricia; Simms, Shavonne  
**Cc:** Watkins, Harrell; Maher, Karen; Floyd-Coleman, Cynthia; Weinstock, Larry  
**Subject:** RE: FOIA Request #EPA-HQ-2013-009249  
**Importance:** High

All –

(b) (5) DPP, (b) (5) ACP

[REDACTED]

(b) (5) DPP, (b) (5) ACP

Thanks!

Cindy  
564-2690

---

**From:** Hilton, Patricia  
**Sent:** Tuesday, September 10, 2013 2:03 PM  
**To:** Simms, Shavonne  
**Cc:** Watkins, Harrell; Maher, Karen; Anderson, Cindy; Floyd-Coleman, Cynthia  
**Subject:** FOIA Request #EPA-HQ-2013-009249

Shavonne,

(b) (5) DPP, (b) (5) ACP

Call me

if you have any questions. Thanks, Pat

**Patricia Hilton (Pat)**, Special Assistant  
Office of Technology Operations and Planning (OTOP)  
Office of Environmental Information (OEI)  
Office (202) 566-1636  
Fax (202) 566-0319

**From:** [Fritz, Matthew](#)  
**To:** [Minoli, Kevin](#); [Stewart, Lori](#)  
**Cc:** [Anderson, Cindy](#); [Miller, Kevin](#)  
**Subject:** RE: CEI FOIA disclosure scheduled for Friday, Dec. 6  
**Date:** Friday, December 06, 2013 9:56:09 AM

---

I will be back.

Thanks and shoot me notes if you need anything. There is a tiny, tiny time difference but who needs sleep.

---

**From:** Minoli, Kevin  
**Sent:** Friday, December 06, 2013 9:37 AM  
**To:** Fritz, Matthew; Stewart, Lori  
**Cc:** Anderson, Cindy; Miller, Kevin  
**Subject:** Re: CEI FOIA disclosure scheduled for Friday, Dec. 6

Hi Matt- I hope you and the Administrator have a great trip to China. I want to confirm you will be back on the 16th or 17th to sign the declaration. Thanks, Kevin

Kevin S. Minoli  
Acting Principal Associate General Counsel  
Office of General Counsel  
Main Line: 564-8064  
Direct Dial: 564-5551

---

**From:** Fritz, Matthew  
**Sent:** Friday, December 06, 2013 8:18:51 AM  
**To:** Minoli, Kevin; [stewart.ori@epa.gov](mailto:stewart.ori@epa.gov)  
**Cc:** Anderson, Cindy; Miller, Kevin  
**Subject:** RE: CEI FOIA disclosure scheduled for Friday, Dec. 6

Kevin,


Thank you for the update. For awareness purposes, I will be out of the country next week but reachable.

---

**From:** Minoli, Kevin  
**Sent:** Friday, December 06, 2013 8:16 AM  
**To:** Fritz, Matthew; [stewart.ori@epa.gov](mailto:stewart.ori@epa.gov)  
**Cc:** Anderson, Cindy; Miller, Kevin  
**Subject:** CEI FOIA disclosure scheduled for Friday, Dec. 6

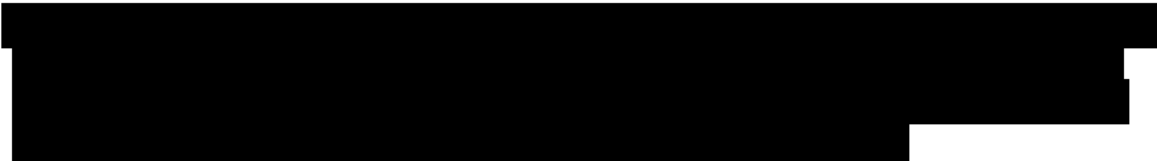

Matt and Lori-

(b)(5) ACP, (b)(5) AWP, (b)(5) DP

A large black rectangular redaction box covers the bottom portion of the email, obscuring several lines of text.



(b)(5) ACP, (b)(5) AWP, (b)(5) DP



Thank you, Kevin

Kevin S. Minoli  
Acting Principal Associate General Counsel  
Office of General Counsel  
Main Office Line: 202-564-8064  
Direct Dial: 202-564-5551

**From:** [Nebeker, Mark \(USADC\)](#)  
**To:** [Anderson, Cindy](#)  
**Subject:** RE: CEI v. EPA (13-1074)  
**Date:** Wednesday, November 27, 2013 10:31:40 AM  
**Attachments:** [CEI EOT4 ord.pdf](#)  
[CEI4a.eot.pdf](#)

Requester has attachment

---

No biggie. I filed the motion today. See attached...

---

**From:** Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
**Sent:** Tuesday, November 26, 2013 4:53 PM  
**To:** Nebeker, Mark (USADC)  
**Subject:** RE: CEI v. EPA (13-1074)

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

Cindy  
564-2690

---

**From:** Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
**Sent:** Tuesday, November 26, 2013 4:51 PM  
**To:** Anderson, Cindy  
**Subject:** RE: CEI v. EPA (13-1074)

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

---

**From:** Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
**Sent:** Tuesday, November 26, 2013 4:49 PM  
**To:** Nebeker, Mark (USADC)  
**Subject:** FW: CEI v. EPA (13-1074)

Mark –

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

---

Mark –

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

(b) (5) DPP, (b) (5) ACP

[REDACTED]

As ever, thanks so much for your patience in this and other matters on behalf of EPA!  
(and Happy Thanksgiving!)

Cindy

564-2690

---

**From:** Anderson, Cindy  
**Sent:** Tuesday, November 26, 2013 10:23 AM  
**To:** Nguyen, Quoc; Nebeker, Mark (USADC)  
**Subject:** FW: CEI v. EPA (13-1074)

Mark -

(b)(5)

[REDACTED]

(5) AWP.

[REDACTED]

(b)(5) DP

[REDACTED]

Cindy Anderson  
EPA/OGC  
(202) 564-2690

---

**From:** Chris Horner <[CHorner@cei.org](mailto:CHorner@cei.org)>  
**Sent:** Tuesday, November 26, 2013 10:17 AM  
**To:** Nebeker, Mark (USADC)  
**Cc:** Anderson, Cindy; Hans Bader; Sam Kazman  
**Subject:** Re: CEI v. EPA (13-1074)

Ok Mark, take that time, and we would like the same but not counting the holiday period. So, you take the 11 days and we will take that, plus the week 'off', or 18 days. Does that work for you? (Btw Cindy, I never was provided the November production in that ATI case despite EPA claiming otherwise, and as I gave informed them twice; it also still was not at FOIAOnline as of yesterday, FYI. Since it us mentioned here).

Best,

Chris Horner

Sent from my iPhone

On Nov 25, 2013, at 4:55 PM, "Nebeker, Mark (USADC)" <[Mark.Nebeker@usdoj.gov](mailto:Mark.Nebeker@usdoj.gov)> wrote:

<image001.png>

I am forced to ask for an additional extension of time to get the summary judgment motion filed in the above civil action. As, I believe, you know from our earlier discussions, the agency has located certain records that it intends to release (with redactions) in the case. Due to many competing issues that have arisen (before and

after the government shutdown) the agency does not believe it can get to you the redacted production in advance of December 6, 2013. I also must participate in depositions in an unrelated civil action that was assigned to me late in the discovery process. That case also required that my client supplement the discovery responses this week. My agency counsel has also been required to assist in a production in another case that I believe you are handling (ATI v. EPA) which involves a document production next on December 15, 2013. I must also complete a motion and opposition in the Court of Appeals next week and be responsible for emergency matters should any motions for a temporary restraining orders be filed next week. In short, we are trying to respond properly in your case, but have many competing responsibilities.

May I have your consent to an extension of time to file our dispositive motion in this case on December 17, 2013 (a 2-week extension)? I am certainly willing to provide you whatever time you reasonably need to respond to the motion.

---

**From:** Christopher Horner [<mailto:chris.horner@cei.org>]  
**Sent:** Tuesday, November 12, 2013 4:50 PM  
**To:** Nebeker, Mark (USADC)  
**Cc:** Hans Bader; Sam Kazman; Anderson, Cindy  
**Subject:** Re: CEI v. EPA (13-1074)

We can consider CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training resolved.

Best,  
Chris Horner

On 11/12/13 4:32 PM, "Nebeker, Mark (USADC)" <[Mark.Nebeker@usdoj.gov](mailto:Mark.Nebeker@usdoj.gov)> wrote:

<image001.png>  
Mr. Horner:

I am attempting to figure out whether we have any issues remaining as to CEI's FOIA request HQ-2013-005618 for records regarding Gina McCarthy IT training. Can you tell me whether we can put that one behind us?

Sorry I missed you just now. I hope to be back after my 1:00 ADR (b)(5) ACP, (b)(5) AWP, (b)(5) DP

I've left voice-mail.

(b)(5) ACP, (b)(5) AWP, (b)(5) DP

Thanks!  
Cindy  
564-2690

---

**From:** Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
**Sent:** Tuesday, November 05, 2013 6:12 PM  
**To:** Anderson, Cindy  
**Subject:** RE: CEI v. EPA (13-1074) (bills for Gina McCarthy text messages)


Call before noon. I have an ADR session at 1:00 p.m.

---

**From:** Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
**Sent:** Tuesday, November 05, 2013 4:36 PM  
**To:** Nebeker, Mark (USADC)  
**Subject:** CEI v. EPA (13-1074) (bills for Gina McCarthy text messages)  
**Importance:** High

Mark –

(b)(5) ACP, (b)(5) AWP, (b)(5) DP

A large block of text is redacted with black bars. It appears to be a list or a series of short paragraphs, with the first line starting with "(b)(5) ACP, (b)(5) AWP, (b)(5) DP".A block of text is redacted with black bars. It consists of several lines of text, likely a paragraph or a list of items.A block of text is redacted with black bars. It consists of several lines of text, likely a paragraph or a list of items.

I will try to call you tomorrow since I'm leaving the office now for the evening.  
Please let me know a time that might be convenient to chat for 15 minutes.

Hope you're holding up better than I am!

Cindy Anderson  
EPA/OGC

(202) 564-2690

**From:** [Anderson, Cindy](#)  
**To:** [Nebeker, Mark \(USADC\)](#)  
**Subject:** RE: CEI v. EPA (13-1074) - Declarations  
**Date:** Wednesday, December 18, 2013 2:13:00 PM  
**Attachments:** [\[Untitled\].pdf](#)  
**Importance:** High

---

Mark -

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, December 18, 2013 1:51 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

(b)(5) AWP  
[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 11:49 AM  
To: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
Importance: High

Mark -

(b)(5) ACP, (b)(5) AWP, (b)(5) DP  
[REDACTED]

Thanks!



Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Tuesday, December 17, 2013 11:04 AM  
To: 'Nebeker, Mark (USADC)'  
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
Importance: High

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

[REDACTED]

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Friday, December 13, 2013 4:53 PM  
To: 'Chris Horner'  
Cc: 'Nebeker, Mark (USADC)'  
Subject: RE: CEI v. EPA (13-1074)

Thanks Chris.

No, Janet McCabe's name is not on the list that I've sent today.  
I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.  
It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

Cindy  
564-2690

-----Original Message-----

From: Chris Horner [<mailto:CHorner@cei.org>]  
Sent: Friday, December 13, 2013 4:45 PM

To: Anderson, Cindy  
Subject: Re: CEI v. EPA (13-1074)

Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

Sent from my iPhone

> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:  
>  
> Mr. Horner –  
>  
> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.  
> I will also mail it through USPS as I did the previous material.  
>  
> Please let me know that you have received this information.  
>  
> Cindy Anderson  
> EPA/OGC  
> 564-2690  
>  
> From: Anderson, Cindy  
> Sent: Friday, December 06, 2013 5:12 PM  
> To: 'Chris Horner'  
> Subject: CEI v. EPA (13-1074)  
>  
> Mr. Horner –  
>  
> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.  
>  
> I will place a hard copy of these documents in the mail as well.  
>  
> Cindy  
> 564-2690  
>  
>  
> <[Untitled].pdf>  
> <12.5.13 final 25 pp\_Redacted.pdf>  
> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

**From:** [Nebeker, Mark \(USADC\)](#)  
**To:** [Anderson, Cindy](#)  
**Subject:** RE: CEI v. EPA (13-1074) - Declarations  
**Date:** Thursday, December 19, 2013 2:40:42 PM

---

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 5:34 PM  
To: Nebeker, Mark (USADC)  
Subject: RE: CEI v. EPA (13-1074) - Declarations

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, December 18, 2013 4:55 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) - Declarations

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 4:07 PM  
To: Nebeker, Mark (USADC)  
Subject: RE: CEI v. EPA (13-1074) - Declarations

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, December 18, 2013 3:58 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) - Declarations

Here's my draft...

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Wednesday, December 18, 2013 2:09 PM

To: Nebeker, Mark (USADC)

Subject: RE: CEI v. EPA (13-1074) - Declarations

Importance: High

Mark -

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy

564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Wednesday, December 18, 2013 1:51 PM

To: Anderson, Cindy

Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Wednesday, December 18, 2013 11:49 AM

To: Nebeker, Mark (USADC)

Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Importance: High

Mark -

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Tuesday, December 17, 2013 11:04 AM  
To: 'Nebeker, Mark (USADC)'  
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
Importance: High

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

[REDACTED]

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Friday, December 13, 2013 4:53 PM  
To: 'Chris Horner'  
Cc: 'Nebeker, Mark (USADC)'  
Subject: RE: CEI v. EPA (13-1074)

Thanks Chris.

No, Janet McCabe's name is not on the list that I've sent today.  
I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.  
It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

Cindy  
564-2690

-----Original Message-----

From: Chris Horner [<mailto:CHorner@cei.org>]

Sent: Friday, December 13, 2013 4:45 PM

To: Anderson, Cindy

Subject: Re: CEI v. EPA (13-1074)

Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

Sent from my iPhone

> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <[anderson.cindy@epa.gov](mailto:anderson.cindy@epa.gov)> wrote:

>

> Mr. Horner –

>

> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.

> I will also mail it through USPS as I did the previous material.

>

> Please let me know that you have received this information.

>

> Cindy Anderson

> EPA/OGC

> 564-2690

>

> From: Anderson, Cindy

> Sent: Friday, December 06, 2013 5:12 PM

> To: 'Chris Horner'

> Subject: CEI v. EPA (13-1074)

>

> Mr. Horner –

>

> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

>

> I will place a hard copy of these documents in the mail as well.

>

> Cindy

> 564-2690

>

>

> <[Untitled].pdf>

> <12.5.13 final 25 pp\_Redacted.pdf>

> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

**From:** [Nebeker, Mark \(USADC\)](#)  
**To:** [Anderson, Cindy](#)  
**Subject:** RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
**Date:** Wednesday, December 18, 2013 5:05:59 PM

---

(b)(5) ACP, (b)(5) DP, (b)(5) AWP  
[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 3:18 PM  
To: Nebeker, Mark (USADC)  
Cc: Miller, Kevin  
Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
Importance: High

Mark -

Ex. 5 AWP  
[REDACTED]

Thanks -

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, December 18, 2013 1:51 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Ex. 5 AWP  
[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 11:49 AM  
To: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Importance: High

Mark -

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy

Sent: Tuesday, December 17, 2013 11:04 AM

To: 'Nebeker, Mark (USADC)'

Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Importance: High

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy

Sent: Friday, December 13, 2013 4:53 PM

To: 'Chris Horner'

Cc: 'Nebeker, Mark (USADC)'



Subject: RE: CEI v. EPA (13-1074)

Thanks Chris.

No, Janet McCabe's name is not on the list that I've sent today.  
I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.  
It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

Cindy  
564-2690

-----Original Message-----

From: Chris Horner [<mailto:CHorner@cei.org>]  
Sent: Friday, December 13, 2013 4:45 PM  
To: Anderson, Cindy  
Subject: Re: CEI v. EPA (13-1074)

Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

Sent from my iPhone

> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <[anderson.cindy@epa.gov](mailto:anderson.cindy@epa.gov)> wrote:  
>  
> Mr. Horner –  
>  
> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.  
> I will also mail it through USPS as I did the previous material.  
>  
> Please let me know that you have received this information.  
>  
> Cindy Anderson  
> EPA/OGC  
> 564-2690  
>  
> From: Anderson, Cindy  
> Sent: Friday, December 06, 2013 5:12 PM  
> To: 'Chris Horner'  
> Subject: CEI v. EPA (13-1074)  
>  
> Mr. Horner –  
>  
> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.  
>  
> I will place a hard copy of these documents in the mail as well.  
>  
> Cindy  
> 564-2690  
>  
>  
> <[Untitled].pdf>  
> <12.5.13 final 25 pp\_Redacted.pdf>

> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

**From:** [Anderson, Cindy](#)  
**To:** [Nebeker, Mark \(USADC\)](#)  
**Subject:** RE: CEI v. EPA (13-1074) - "see FRITZ Decl (paras 10 & 11)  
**Date:** Wednesday, December 18, 2013 5:15:00 PM

---

(b)(5) ACP, (b)(5) DP, (b)(5) AWP  
[REDACTED]

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, December 18, 2013 5:06 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

(b)(5) ACP, (b)(5) DP, (b)(5) AWP  
[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Wednesday, December 18, 2013 3:18 PM  
To: Nebeker, Mark (USADC)  
Cc: Miller, Kevin  
Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached  
Importance: High

Mark -

Ex. 5 AWP  
[REDACTED]

Thanks -

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Wednesday, December 18, 2013 1:51 PM

To: Anderson, Cindy

Subject: RE: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

**Ex. 5 AWP**

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Wednesday, December 18, 2013 11:49 AM

To: Nebeker, Mark (USADC)

Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Importance: High

Mark -

**(b)(5) ACP, (b)(5) DP, (b)(5) AWP**

Thanks!

Cindy

564-2690

-----Original Message-----

From: Anderson, Cindy

Sent: Tuesday, December 17, 2013 11:04 AM

To: 'Nebeker, Mark (USADC)'

Subject: FW: CEI v. EPA (13-1074) - "minor"(?) discrepancy in info provided & aggregate text messaging by months attached

Importance: High

**(b)(5) ACP, (b)(5) DP, (b)(5) AWP**

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Anderson, Cindy  
Sent: Friday, December 13, 2013 4:53 PM  
To: 'Chris Horner'  
Cc: 'Nebeker, Mark (USADC)'  
Subject: RE: CEI v. EPA (13-1074)

Thanks Chris.

No, Janet McCabe's name is not on the list that I've sent today.  
I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.  
It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

Cindy  
564-2690

-----Original Message-----

From: Chris Horner [<mailto:CHorner@cei.org>]  
Sent: Friday, December 13, 2013 4:45 PM  
To: Anderson, Cindy  
Subject: Re: CEI v. EPA (13-1074)

Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

Sent from my iPhone

> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <[anderson.cindy@epa.gov](mailto:anderson.cindy@epa.gov)> wrote:  
>  
> Mr. Horner –  
>  
> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.  
> I will also mail it through USPS as I did the previous material.  
>  
> Please let me know that you have received this information.  
>  
> Cindy Anderson  
> EPA/OGC  
> 564-2690  
>  
> From: Anderson, Cindy

> Sent: Friday, December 06, 2013 5:12 PM  
> To: 'Chris Horner'  
> Subject: CEI v. EPA (13-1074)  
>  
> Mr. Horner –  
>  
> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.  
>  
> I will place a hard copy of these documents in the mail as well.  
>  
> Cindy  
> 564-2690  
>  
>  
> <[Untitled].pdf>  
> <12.5.13 final 25 pp\_Redacted.pdf>  
> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

**From:** [Anderson, Cindy](#)  
**To:** [Nebeker, Mark \(USADC\)](#)  
**Subject:** RE: CEI v. EPA (13-1074) Draft ANSWER & billing for Gina McCarthy text messages  
**Date:** Thursday, August 29, 2013 1:42:00 PM

---

**(b)**

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Thursday, August 29, 2013 1:37 PM  
To: Anderson, Cindy  
Subject: RE: CEI v. EPA (13-1074) Draft ANSWER & billing for Gina McCarthy text messages

**(b)(5) ACP, (b)(5) DP, (b)(5) AWP** ""?

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
Sent: Thursday, August 29, 2013 12:42 PM  
To: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) Draft ANSWER & billing for Gina McCarthy text messages  
Importance: High

**(b)(5) ACP, (b)(5) DP, (b)(5) AWP**

[REDACTED]

Thanks!

Cindy  
564-2690

-----Original Message-----

From: Weinstock, Larry  
Sent: Thursday, August 29, 2013 12:38 PM  
To: Anderson, Cindy  
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

**(b)(5) ACP, (b)(5) DP, (b)(5) AWP**

[REDACTED]

Larry

---

From: Anderson, Cindy  
Sent: Thursday, August 29, 2013 11:32:26 AM  
To: Weinstock, Larry  
Cc: Nebeker, Mark (USADC)  
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

do?

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Thursday, August 29, 2013 11:28 AM  
To: Anderson, Cindy  
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. (b)(5) ACP, (b)(5) DP, (b)(5) AWP

-----Original Message-----

From: Christopher Horner [[mailto:chris\\_horner@cei.org](mailto:chris_horner@cei.org)]  
Sent: Thursday, August 29, 2013 11:19 AM  
To: Nebeker, Mark (USADC)  
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,  
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <[Mark.Nebeker@usdoj.gov](mailto:Mark.Nebeker@usdoj.gov)> wrote:



> It is my understanding that the phone and text message bills to EPA  
> are sent only electronically in very large files on a monthly basis.  
> Each invoice is, in fact, on average about 43 megabytes. Were those  
> monthly bills to be printed out they would likely constitute 4,000 to  
> 6,000 pages for each PDF version of the invoice.  
>  
> In order to respond to your request, as clarified in your July 3 email  
> to Larry Weinstock, for billings for only text messages from the  
> mobile device that Gina McCarthy used during the time period you  
> indicated, the Office of Environmental Information compiled the  
> information provided to you by searching for the bill information  
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.  
>  
>  
> -----Original Message-----  
> From: Christopher Horner [[mailto:chris\\_horner@cei.org](mailto:chris_horner@cei.org)]  
> Sent: Tuesday, August 20, 2013 2:34 PM  
> To: Nebeker, Mark (USADC)  
> Subject: Re: CEI v. EPA (13-1074)  
>  
> Dear Mark,  
>  
> While I gave your email address on related correspondence in front  
> of me, I wanted to shoot you over what I was speaking about  
> yesterday. Our request re the phone/PDA bills was for the bills  
> themselves; when we narrowed, we agreed to narrow to the text message  
> portions of the bills themselves. EPA instead created the attached  
> doc, which on its face cites the invoice numbers from which the  
> information was obtained (See second column, Invoice number", e.g.,  
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal  
production, that we seek and that are responsive.  
>  
> Best,  
> Chris Horner  
>  
>  
> On 8/19/13 10:56 AM, "Anderson, Cindy" <[anderson.cindy@epa.gov](mailto:anderson.cindy@epa.gov)> wrote:  
>  
>> Chris -  
>>  
>> Mark Nebeker suggested that I send this FOIA response (mailed last  
>> Thursday, August 15) to you directly since his computer is still not  
>> operating today.  
>>  
>> Cindy Anderson  
>> EPA/OGC  
>> (202) 564-2690  
>> \_\_\_\_\_  
>> \_  
>> \_  
>>  
>> -----Original Message-----  
>> From: Anderson, Cindy  
>> Sent: Monday, August 19, 2013 10:28 AM  
>> To: 'mark.nebeker@usdoj.gov'  
>> Subject: CEI v. EPA (13-1074)  
>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,

>> August 15, in response to FOIA request HQ-2013-005618 (for evidence

>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>


**From:** [Anderson, Cindy](#)  
**To:** [mark.nebeker@usdoj.gov](mailto:mark.nebeker@usdoj.gov)  
**Cc:** [Weinstock, Larry](#)  
**Subject:** RE: CEI v. EPA (13-1074) FOIA lawsuit re Gina McCarthy's text messaging/bills therefor  
**Date:** Tuesday, August 27, 2013 4:23:00 PM  
**Importance:** High

---

Mark –

I will be out of the office tomorrow morning and have meetings here until about noon.

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

A large rectangular area of the email body is completely redacted with a solid black box.

You can reach me on my cell phone after 5pm today: (b) (6)

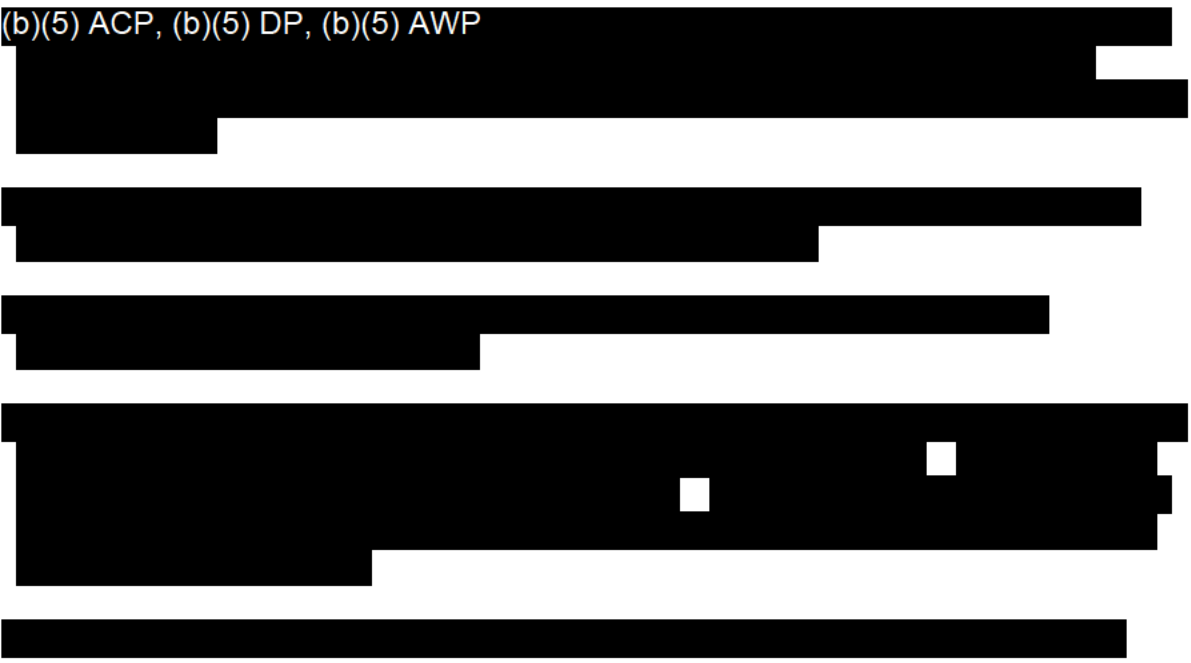
Cindy  
564-2690

---


**From:** Anderson, Cindy  
**Sent:** Tuesday, August 27, 2013 1:42 PM  
**To:** mark.nebeker@usdoj.gov  
**Cc:** Weinstock, Larry  
**Subject:** CEI v. EPA (13-1074) FOIA lawsuit re Gina McCarthy's text messaging/bills therefor  
**Importance:** High

Mark –

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

A large rectangular area of the email body is completely redacted with a solid black box.

(b)(5) ACP, (b)(5) DP, (b)(5) AWP



Cindy Anderson

EPA/OGC

(202) 564-2690

**From:** [Nebeker, Mark \(USADC\)](#)  
**To:** [Anderson, Cindy](#)  
**Subject:** RE: CEI v. EPA (13-1074) Gina McCarthy text messaging invoices  
**Date:** Wednesday, December 11, 2013 2:09:41 PM

---

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

[Redacted]

[Redacted]

[Redacted]

---

**From:** Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
**Sent:** Wednesday, December 11, 2013 11:28 AM  
**To:** Nebeker, Mark (USADC)  
**Subject:** RE: CEI v. EPA (13-1074) Gina McCarthy text messaging invoices  
**Importance:** High

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Let me know when might be convenient for you.

Cindy  
564-2690

---

**From:** Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
**Sent:** Wednesday, December 11, 2013 11:08 AM  
**To:** Anderson, Cindy  
**Subject:** RE: CEI v. EPA (13-1074) Gina McCarthy text messaging invoices

(b)(5) ACP, (b)(5) DP, (b)(5) AWP

[Redacted]

---

**From:** Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]  
**Sent:** Wednesday, December 11, 2013 10:47 AM  
**To:** Nebeker, Mark (USADC)  
**Subject:** CEI v. EPA (13-1074) Gina McCarthy text messaging invoices

Mark –

(b)(5) AWP

[Redacted]

[Redacted]

Here's what was sent out last Friday to Horner.

Cindy

564-2690

---

**From:** Anderson, Cindy

**Sent:** Friday, December 06, 2013 5:12 PM

**To:** 'Chris Horner'

**Subject:** CEI v. EPA (13-1074)

Mr. Horner –

Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

I will place a hard copy of these documents in the mail as well.

Cindy

564-2690

**From:** [Anderson, Cindy](#)  
**To:** [Nebeker, Mark \(USADC\)](#)  
**Subject:** RE: CEI v. EPA (13-1074) [Gina McCarthy text message bills and IT training]  
**Date:** Wednesday, August 28, 2013 12:02:00 PM

---

Mark -

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cindy  
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]  
Sent: Wednesday, August 28, 2013 9:59 AM  
To: Christopher Horner  
Subject: RE: CEI v. EPA (13-1074)

It is my understanding that the phone and text message bills to EPA are sent only electronically in very large files on a monthly basis. Each invoice is, in fact, on average about 43 megabytes. Were those monthly bills to be printed out they would likely constitute 4,000 to 6,000 pages for each PDF version of the invoice.

In order to respond to your request, as clarified in your July 3 email to Larry Weinstock, for billings for only text messages from the mobile device that Gina McCarthy used during the time period you indicated, the Office of Environmental Information compiled the information provided to you by searching for the bill information provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

-----Original Message-----

From: Christopher Horner [<mailto:chris.horner@cei.org>]  
Sent: Tuesday, August 20, 2013 2:34 PM  
To: Nebeker, Mark (USADC)  
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

While I hgave your email address on related correspondence in front iof me, I wanted to shoot you over what I was speaking about yesterday. Our request re the phone/PDA bills was for the bills themselves; when we narrowed, we agreed to narrow to the text message portions of the bills themselves. EPA instead created the attached doc, which on its face cites the invoice numbers from which the information was obtained (See second column, Invoice

number", e.g., 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal production, that we seek and that are responsive.

Best,  
Chris Horner

On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

> Chris -  
>  
> Mark Nebeker suggested that I send this FOIA response (mailed last  
> Thursday, August 15) to you directly since his computer is still not operating today.  
>  
> Cindy Anderson  
> EPA/OGC  
> (202) 564-2690  
> \_\_\_\_\_  
> \_  
>  
> -----Original Message-----  
> From: Anderson, Cindy  
> Sent: Monday, August 19, 2013 10:28 AM  
> To: 'mark.nebeker@usdoj.gov'  
> Subject: CEI v. EPA (13-1074)  
>  
> Mark -  
>  
> Attached are the documents that were sent to CEI last Thursday, August  
> 15, in response to FOIA request HQ-2013-005618 (for evidence of  
> training that Gina McCarthy took regarding record-keeping, etc.).  
>  
> Thanks!  
>  
> Cindy Anderson  
> EPA/OGC  
> (202) 564-2690  
>  
>



**From:** [Anderson, Cindy](#)  
**To:** [Weinstock, Larry](#)  
**Cc:** [Ketcham-Colwill, Nancy](#)  
**Subject:** RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages  
**Date:** Tuesday, September 03, 2013 3:14:00 PM

---

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[Redacted]

[Redacted]

[Redacted]

Cindy  
564-2690

-----Original Message-----

**From:** Weinstock, Larry  
**Sent:** Tuesday, September 03, 2013 1:51 PM  
**To:** Anderson, Cindy  
**Cc:** Ketcham-Colwill, Nancy  
**Subject:** RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[Redacted]

Larry

-----Original Message-----

**From:** Anderson, Cindy  
**Sent:** Tuesday, September 03, 2013 1:43 PM  
**To:** Weinstock, Larry  
**Cc:** Ketcham-Colwill, Nancy  
**Subject:** FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I hope you had a fine week-end away after I finally stopped pestering you on Thursday afternoon.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[Redacted]

[Redacted]

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[REDACTED]

Cindy  
564-2690

-----Original Message-----

From: Reilly, Tom  
Sent: Thursday, August 29, 2013 1:28 PM  
To: Anderson, Cindy  
Cc: Weinstock, Larry  
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Cindy,

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[REDACTED]

Tom

From: DAVIS, TANIKA  
Sent: Thursday, August 29, 2013 1:20 PM  
To: Reilly, Tom  
Subject: McCarthy Info

Tom,

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[REDACTED]

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov

~~~~~  
PLEASE NOTE If you require Mobile Device related assistance, please use the following contacts:
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov All Other Locations - EPA Call
Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Anderson, Cindy

Sent: Thursday, August 29, 2013 12:54 PM

To: Reilly, Tom; DAVIS, TANIKA

Cc: Weinstock, Larry

Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Importance: High

Tom & Tanika -

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Please feel free to call me to discuss.

Thanks!

Cindy Anderson

EPA/OGC

(202) 564-2690

-----Original Message-----

From: Weinstock, Larry

Sent: Thursday, August 29, 2013 12:38 PM

To: Anderson, Cindy

Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

Larry

From: Anderson, Cindy

Sent: Thursday, August 29, 2013 11:32:26 AM

To: Weinstock, Larry

Cc: Nebeker, Mark (USADC)

Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. (b)(5) AWP, (b)(5) DP, (b)(5) ACP

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

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If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

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Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

- > It is my understanding that the phone and text message bills to EPA
- > are sent only electronically in very large files on a monthly basis.
- > Each invoice is, in fact, on average about 43 megabytes. Were those
- > monthly bills to be printed out they would likely constitute 4,000 to
- > 6,000 pages for each PDF version of the invoice.

>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.
>
>
> -----Original Message-----
> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)
>
> Dear Mark,
>
> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
> production, that we seek and that are responsive.
>
> Best,
> Chris Horner
>
>
> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:
>
>> Chris -
>>
>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.
>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690
>> _____
>> _
>> _
>>
>> -----Original Message-----
>> From: Anderson, Cindy
>> Sent: Monday, August 19, 2013 10:28 AM
>> To: 'mark.nebeker@usdoj.gov'
>> Subject: CEI v. EPA (13-1074)
>>
>> Mark -
>>
>> Attached are the documents that were sent to CEI last Thursday,
>> August 15, in response to FOIA request HQ-2013-005618 (for evidence
>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

From: [Reilly, Tom](#)
To: [Anderson, Cindy](#)
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Thursday, August 29, 2013 3:26:07 PM

Our pleasure to help

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 3:24 PM
To: Reilly, Tom
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Thanks Tom.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Cindy
564-2690

-----Original Message-----

From: Reilly, Tom
Sent: Thursday, August 29, 2013 2:34 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Cindy,

Let us know if there is anything else you need.

Tom

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 1:31 PM
To: Reilly, Tom
Cc: Weinstock, Larry
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Thanks so much Tom.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Please tell Tanika thanks, too, for your incredibly swift response.

Cindy
564-2690

-----Original Message-----

From: Reilly, Tom
Sent: Thursday, August 29, 2013 1:28 PM
To: Anderson, Cindy
Cc: Weinstock, Larry
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Cindy,

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

Tom

From: DAVIS, TANIKA
Sent: Thursday, August 29, 2013 1:20 PM
To: Reilly, Tom
Subject: McCarthy Info

Tom,

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

*****PLEASE NOTE*** If you require Mobile Device related assistance, please use the following contacts:
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov All Other Locations - EPA Call Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 12:54 PM

To: Reilly, Tom; DAVIS, TANIKA
Cc: Weinstock, Larry
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Importance: High

Tom & Tanika -

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Please feel free to call me to discuss.
Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Thursday, August 29, 2013 12:38 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

Larry

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 11:32:26 AM
To: Weinstock, Larry
Cc: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

[REDACTED]

Cindy

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. **(b)(5) AWP, (b)(5) DP, (b)(5) ACP**

-----Original Message-----

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

- > It is my understanding that the phone and text message bills to EPA
- > are sent only electronically in very large files on a monthly basis.
- > Each invoice is, in fact, on average about 43 megabytes. Were those
- > monthly bills to be printed out they would likely constitute 4,000 to
- > 6,000 pages for each PDF version of the invoice.
- >
- > In order to respond to your request, as clarified in your July 3 email
- > to Larry Weinstock, for billings for only text messages from the
- > mobile device that Gina McCarthy used during the time period you
- > indicated, the Office of Environmental Information compiled the
- > information provided to you by searching for the bill information
- > provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.
- >

>
> -----Original Message-----
> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)
>
> Dear Mark,
>
> While I hgave your email address on related correspondence in front
> iof me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
> production, that we seek and that are responsive.
>
> Best,
> Chris Horner
>
>
> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:
>
>> Chris -
>>
>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.
>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690
>> _____
>> _
>> _
>>
>> -----Original Message-----
>> From: Anderson, Cindy
>> Sent: Monday, August 19, 2013 10:28 AM
>> To: 'mark.nebeker@usdoj.gov'
>> Subject: CEI v. EPA (13-1074)
>>
>> Mark -
>>
>> Attached are the documents that were sent to CEI last Thursday,
>> August 15, in response to FOIA request HQ-2013-005618 (for evidence
>> of training that Gina McCarthy took regarding record-keeping, etc.).
>>
>> Thanks!
>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690
>>
>>

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: RE: CEI v. EPA (13-1074) billing for Gina McCarthy text messages
Date: Thursday, August 29, 2013 12:42:00 PM

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Have a good trip; hope you can forget all about this stuff while you're away.

Cindy
564-2690

-----Original Message-----

From: Weinstock, Larry
Sent: Thursday, August 29, 2013 12:38 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Larry

From: Anderson, Cindy
Sent: Thursday, August 29, 2013 11:32:26 AM
To: Weinstock, Larry
Cc: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074) billing for Gina McCarthy text messages

Larry -

I know you're on your way out-of-town.

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. (b)(5) AWP, (b)(5) DP, (b)(5) ACP

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

> It is my understanding that the phone and text message bills to EPA
> are sent only electronically in very large files on a monthly basis.
> Each invoice is, in fact, on average about 43 megabytes. Were those
> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.
>
>
> -----Original Message-----
> From: Christopher Horner [mailto:chris_horner@cei.org]
> Sent: Tuesday, August 20, 2013 2:34 PM
> To: Nebeker, Mark (USADC)
> Subject: Re: CEI v. EPA (13-1074)
>
> Dear Mark,
>
> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about

> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
production, that we seek and that are responsive.

>

> Best,

> Chris Horner

>

>

> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>

>> Chris -

>>

>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,
>> August 15, in response to FOIA request HQ-2013-005618 (for evidence
>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: RE: CEI v. EPA (13-1074) bills for text messaging
Date: Tuesday, August 27, 2013 12:15:00 PM

Thanks –

(b)(5) AWP, (b)(5) DP,

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, August 27, 2013 12:07 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) bills for text messaging

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Larry

From: Anderson, Cindy
Sent: Tuesday, August 27, 2013 11:06 AM
To: mark.nebeker@usdoj.gov
Cc: Weinstock, Larry
Subject: FW: CEI v. EPA (13-1074) bills for text messaging

Mark –

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]


Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, August 27, 2013 9:31 AM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) bills for text messaging

From: Anderson, Cindy
Sent: Monday, August 26, 2013 4:30 PM
To: Weinstock, Larry
Subject: CEI v. EPA (13-1074) bills for text messaging

Larry
(sorry to be filling your inbox)

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

A large rectangular area of the email body is completely redacted with black ink, covering approximately four lines of text.A second large rectangular area of the email body is completely redacted with black ink, covering approximately three lines of text.

Thanks!

-

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [DAVIS, TANIKA](#)
To: [Anderson, Cindy](#); [Reilly, Tom](#)
Cc: [Clark, Dee](#)
Subject: RE: CEI v. EPA (13-1074) invoices for Gina McCarthy text messages (July 2009 through June 2012)
Date: Wednesday, October 23, 2013 9:59:36 AM

(b)(5) AWP, (b)(5) DP, (b)(5) ACP
[REDACTED]

Thanks,

Tanika Davis
ECS Team - EPA ITS - ACT II Contractor
Sr. Telecommunications Billing Analyst
Information Management Group/Mobile Devices Business Office
Tel: (919) 541-1823
Fax: (919) 685-3118
Email: davis.tanika@epa.gov

~~~~~  
\*\*\*PLEASE NOTE\*\*\* If you require Mobile Device related assistance, please use the following contacts:  
EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov  
All Other Locations - EPA Call Center at 866-411-4EPA or EPACALLCENTER@epa.gov

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

-----Original Message-----

**From:** Anderson, Cindy  
**Sent:** Tuesday, October 22, 2013 7:29 PM  
**To:** DAVIS, TANIKA; Reilly, Tom  
**Cc:** Clark, Dee  
**Subject:** RE: CEI v. EPA (13-1074) invoices for Gina McCarthy text messages (July 2009 through June 2012)

Thanks Tanika

(b)(5) AWP, (b)(5) DP, (b)(5) ACP  
[REDACTED]

Cindy Anderson  
EPA/OGC  
(202) 564-2690

---

**From:** DAVIS, TANIKA  
**Sent:** Tuesday, October 22, 2013 6:28 PM  
**To:** Anderson, Cindy; Reilly, Tom  
**Cc:** Clark, Dee  
**Subject:** RE: CEI v. EPA (13-1074) invoices for Gina McCarthy text messages (July 2009 through June 2012)

Cindy,

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Thanks,

Tanika Davis  
ECS Team - EPA ITS - ACT II Contractor  
Sr. Telecommunications Billing Analyst  
Information Management Group/Mobile Devices Business Office  
Tel: (919) 541-1823  
Fax: (919) 685-3118  
Email: davis.tanika@epa.gov<<mailto:davis.tanika@epa.gov>>

~~~~~  
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EZTech Locations - EPA Call Center 866-411-4372 (option 3) or EZTech@epa.gov<<mailto:EZTech@epa.gov>>
All Other Locations - EPA Call Center at 866-411-4EPA or
EPACALLCENTER@epa.gov<<mailto:EPACALLCENTER@epa.gov>>

Act mindfully. Accept entirely. Move strongly. Think softly. Speak beautifully. Live simply. Love completely.

From: Anderson, Cindy
Sent: Tuesday, October 22, 2013 4:27 PM
To: Reilly, Tom
Cc: Clark, Dee; DAVIS, TANIKA
Subject: CEI v. EPA (13-1074) invoices for Gina McCarthy text messages (July 2009 through June 2012)
Importance: High

THANK YOU ALL so much (more than I can say)

(b)(5) AWP, (b)(5) DP, (b)(5) ACP

Again (and I don't usually use CAPS this much) a million THANKS!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#)
Subject: RE: CEI v. EPA (13-1074) re phone bills for Gina text messages
Date: Friday, August 23, 2013 10:08:46 AM

I am at work 202-564-9226

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, August 23, 2013 8:51 AM
To: Weinstock, Larry
Subject: FW: CEI v. EPA (13-1074) re phone bills for Gina text messages

Larry -

I realized that I neglected to bring home your phone number for this call today.

Could you please either call me (b) (6) send me the phone number where I can reach you at 11 am today?

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Thursday, August 22, 2013 10:40 PM
To: Anderson, Cindy
Subject: Accepted: CEI v. EPA (13-1074) re phone bills for Gina text messages
When: Friday, August 23, 2013 11:00 AM-11:30 AM.
Where: Cindy will call Larry

From: [Nebeker, Mark \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: RE: CEI v. EPA (13-1074) text message billing
Date: Monday, September 30, 2013 4:17:40 PM

Thanks. And Good luck. With any luck, this will just be a couple of well-earned days off (with pay).

From: Anderson, Cindy [mailto:anderson.cindy@epa.gov]
Sent: Monday, September 30, 2013 2:47 PM
To: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA (13-1074) text message billing
Importance: High

Mark –

(b) (5) DPP, (b) (5) ACP [REDACTED]

While I'll be here briefly in the morning, it's mainly to clear out some papers and do my Time and Attendance for last week.

Kevin Miller (202) 564-2691, is excepted and will be available to talk during any furloughed period.

Cindy
564-2690

From: Anderson, Cindy
Sent: Monday, September 30, 2013 2:29 PM
To: 'Nebeker, Mark (USADC)'
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074) text message billing
Importance: High

Mark –

(b)(5) ACP, DPP, AWP [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)

DPP,
AWP

Cindy
564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, September 30, 2013 2:03 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074) text message billing

(b)(5) ACP, DPP, AWP

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, September 30, 2013 1:05 PM
To: Nebeker, Mark (USADC)
Subject: CEI v. EPA (13-1074) text message billing
Importance: High

Mark - -

(b)(5) ACP, DPP, AWP

Thanks!

Cindy
564-2690

From: Schmitt, Addy (USADC) [<mailto:Addy.Schmitt@usdoj.gov>]
Sent: Monday, September 30, 2013 12:32 PM
To: Anderson, Cindy
Subject: FW: ATI v. EPA

Cindy, FYI.

From: Chris Horner [<mailto:chornerlaw@aol.com>]
Sent: Monday, September 30, 2013 12:32 PM
To: Schmitt, Addy (USADC)
Subject: Re: ATI v. EPA

Sure Addy.

Best,
Chris

The information contained in this message may be privileged. This transmission is therefore intended by the sender to be confidential and intended only for the proper recipient. If you are not the intended recipient distribution of this message is prohibited.

-----Original Message-----

From: Schmitt, Addy (USADC) (USADC) <Addy.Schmitt@usdoj.gov>
To: chornelaw <chornerlaw@aol.com>
Sent: Mon, Sep 30, 2013 12:15 pm
Subject: ATI v. EPA

Chris,

I hope this finds you well. While it's anyone's guess whether the government will shut down, I have the unfortunate responsibility of trying to plan for my cases in the event that it does. I intend to file a motion to stay all deadlines (including the agency's next production of documents, scheduled for tomorrow and the status report due 10/15) for a period commensurate with any shutdown. Can you let me know whether you will consent to this request? Thank you for your consideration.

Best,
Addy

Addy R. Schmitt

Assistant United States Attorney

Civil Division

U.S. Attorney's Office for the District of Columbia

501 3rd Street, NW | 4th Floor | Washington, D.C. 20530

☎ 202-252-2530 | 📠 202-252-2599 | ✉ addy.schmitt@usdoj.gov

****Please note the new phone and fax numbers.****

From: [Nebeker, Mark \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Monday, December 16, 2013 4:49:53 PM

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 12:57 PM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: FW: CEI v. EPA (13-1074)

Thanks, I think.

(b)(5) ACP, DPP, AWP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 12:50 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 11:12 AM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Saturday, December 14, 2013 5:17 PM
To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

Sent from my iPhone

On Dec 13, 2013, at 4:48 PM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

> Thanks Chris.

>

> No, Janet McCabe's name is not on the list that I've sent today.

> I'll go back and confirm whether and where it might have appeared on the 25 pages that I sent last week.

> It's possible that I neglected to add her name as a notation on the invoice pages, but it's also possible that she was incorrectly listed as among those to/from whom texts were sent.

>

> Cindy

> 564-2690

>

> -----Original Message-----

> From: Chris Horner [<mailto:CHorner@cei.org>]

> Sent: Friday, December 13, 2013 4:45 PM

> To: Anderson, Cindy

> Subject: Re: CEI v. EPA (13-1074)

>

> Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

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> Sent from my iPhone

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>> On Dec 13, 2013, at 4:33 PM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>>

>> Mr. Horner -

>>

>> I am forwarding the message that I sent to you last Friday along with an update today, including the additional month's invoice as I indicated on Dec. 6.

>> I will also mail it through USPS as I did the previous material.

>>

>> Please let me know that you have received this information.

>>

>> Cindy Anderson

>> EPA/OGC

>> 564-2690

>>

>> From: Anderson, Cindy

>> Sent: Friday, December 06, 2013 5:12 PM

>> To: 'Chris Horner'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mr. Horner -

>>

>> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

>>

>> I will place a hard copy of these documents in the mail as well.

>>

>> Cindy

>> 564-2690

>>

>>

>> <[Untitled].pdf>

>> <12.5.13 final 25 pp_Redacted.pdf>

>> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

From: [Nebeker, Mark \(USADC\)](#)
To: [Anderson, Cindy](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Monday, December 16, 2013 4:47:27 PM

Thank you.

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 4:41 PM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin; Minoli, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks all.

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 4:27 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 4:25 PM
To: Nebeker, Mark (USADC)
Subject: RE: CEI v. EPA (13-1074)

Mark -

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

(b)(5) ACP, DPP, AWP

Thanks!

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 4:22 PM
To: Anderson, Cindy
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)

ATTORNEY/CLIENT

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 3:34 PM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP

Thanks!

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 12:50 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP
[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 11:12 AM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP
[REDACTED]

Cindy
564-2690

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To: Anderson, Cindy
Subject: Re: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP
[REDACTED]

Sent from my iPhone

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> 564-2690

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> Sent: Friday, December 13, 2013 4:45 PM

> To: Anderson, Cindy

> Subject: Re: CEI v. EPA (13-1074)

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>> Please let me know that you have received this information.

>>

>> Cindy Anderson

>> EPA/OGC

>> 564-2690

>>

>> From: Anderson, Cindy

>> Sent: Friday, December 06, 2013 5:12 PM

>> To: 'Chris Horner'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mr. Horner -

>>

>> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

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>> Cindy

>> 564-2690

>>

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>> <[Untitled].pdf>

>> <12.5.13 final 25 pp_Redacted.pdf>

>> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Monday, December 16, 2013 4:29:00 PM

Mark -

(b)(5) ACP, DPP, AWP
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks!

Cindy
564-2690

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Subject: RE: CEI v. EPA (13-1074)

ATTORNEY/CLIENT

(b)(5) ACP, DPP, AWP
[REDACTED]

[REDACTED]

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Sent: Monday, December 16, 2013 3:34 PM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP
[REDACTED]

[REDACTED]

(b)(5) ACP, DPP, AWP

[REDACTED]

Thanks!

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 12:50 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 11:12 AM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP

[REDACTED]

Cindy
564-2690

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Sent: Saturday, December 14, 2013 5:17 PM

To: Anderson, Cindy

Subject: Re: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

Sent from my iPhone

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> 564-2690

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>>

>> Please let me know that you have received this information.

>>

>> Cindy Anderson

>> EPA/OGC

>> 564-2690

>>

>> From: Anderson, Cindy

>> Sent: Friday, December 06, 2013 5:12 PM

>> To: 'Chris Horner'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mr. Horner -

>>

>> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

>>

>> I will place a hard copy of these documents in the mail as well.

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>> 564-2690

>>

>>

>> <[Untitled].pdf>

>> <12.5.13 final 25 pp_Redacted.pdf>

>> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Monday, December 16, 2013 6:25:00 PM

(b) (5) DPP, (b) (5) ACP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 6:20 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 5:49 PM
To: Nebeker, Mark (USADC)
Subject: RE: CEI v. EPA (13-1074)

Sure -

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 5:48 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 5:47 PM
To: Nebeker, Mark (USADC)
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5) ACP, DPP, AWP

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, December 16, 2013 5:44 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Monday, December 16, 2013 4:41 PM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin; Minoli, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

(b)(5) ACP, DPP, AWP

Thanks all.

Cindy
564-2690

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Sent: Monday, December 16, 2013 4:27 PM
To: Anderson, Cindy
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(b)(5) AWP

-----Original Message-----

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Sent: Monday, December 16, 2013 4:25 PM
To: Nebeker, Mark (USADC)
Subject: RE: CEI v. EPA (13-1074)

Mark -

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks!

Cindy
564-2690

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From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Monday, December 16, 2013 4:22 PM

To: Anderson, Cindy

Cc: Miller, Kevin

Subject: RE: CEI v. EPA (13-1074)

ATTORNEY/CLIENT

(b)(5) ACP, DPP, AWP

[REDACTED]

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]

Sent: Monday, December 16, 2013 3:34 PM

To: Nebeker, Mark (USADC)

Cc: Miller, Kevin

Subject: RE: CEI v. EPA (13-1074)

Importance: High

Mark -

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

(b)(5) ACP, DPP, AWP

Thanks!

Cindy
564-2690

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Sent: Monday, December 16, 2013 12:50 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA (13-1074)

(b)(5) ACP, DPP, AWP

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Sent: Monday, December 16, 2013 11:12 AM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: CEI v. EPA (13-1074)
Importance: High

Mark -

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Sent from my iPhone

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> 564-2690

>

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> From: Chris Horner [<mailto:CHorner@cei.org>]

> Sent: Friday, December 13, 2013 4:45 PM

> To: Anderson, Cindy

> Subject: Re: CEI v. EPA (13-1074)

>

> Thank you Cindy I have one question that maybe answered in the attached but I'm not in a position to open it and will not be for a while That is that the previous correspondence stated that Janet McCabe was one of those officials identified in the metadata as a correspondent But in fact she was not identified in the 25 pages that had been attached If that is changed now or else if you can clarify this I appreciate if you please inform me Please pardon any typos I'm using voice recognition to dictate this

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>>

>> Cindy Anderson

>> EPA/OGC

>> 564-2690

>>

>> From: Anderson, Cindy

>> Sent: Friday, December 06, 2013 5:12 PM

>> To: 'Chris Horner'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mr. Horner -

>>

>> Attached are a letter, including an attached list of names, along with 25-pages of invoices for text messaging.

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>>

>> Cindy
>> 564-2690
>>
>>
>> <[Untitled].pdf>
>> <12.5.13 final 25 pp_Redacted.pdf>
>> <Oct-2011 invoice (12.13.13) Redacted.pdf> <[Untitled].pdf>

From: [Nebeker, Mark \(USADC\)](#)
To: [Chris Horner](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Thursday, August 29, 2013 4:02:02 PM

The utility of Plaintiff telling us what issues are remaining is so we don't have to do a motion that addresses things that we all agree on. I'll just put you down as not taking a position at this time and you can address it when the time comes.

From: Chris Horner [mailto:CHorner@cei.org]
Sent: Thursday, August 29, 2013 2:44 PM
To: Nebeker, Mark (USADC)
Subject: RE: CEI v. EPA (13-1074)

Mark,

A couple of things. The time periods are OK but we would like something more concrete re: our query of earlier today before we commit to the schedule. We don't want to have those thoughts still being looked into 30 days from now. Would you like ten days so EPA can answer that before you answer to the court?

I am not sure why we want this:

Plaintiff shall notify the Court and Defendant of its position on what issues, if any, remain to be resolved in this FOIA action on or before September 30, 2013;

Can you tell me what the utility of that is?

Christopher C. Horner Senior Fellow Competitive Enterprise Institute 1899 L St, NW 12th Floor Washington, DC, 20036 +1.202.262.4458 (M)

-----Original Message-----

From: Nebeker, Mark (USADC) [mailto:Mark.Nebeker@usdoj.gov]
Sent: Thu 8/29/2013 1:47 PM
To: Chris Horner
Subject: RE: CEI v. EPA (13-1074)

Thanks. We'll look into your thoughts. Attached is a draft motion for briefing schedule that still needs review here, but can you tell me if Plaintiff is OK with it?

-----Original Message-----

From: Christopher Horner [mailto:chris.horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,
Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

> It is my understanding that the phone and text message bills to EPA
> are sent only electronically in very large files on a monthly basis.
> Each invoice is, in fact, on average about 43 megabytes. Were those
> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

>

>

> -----Original Message-----

> From: Christopher Horner [mailto:chris_horner@cei.org]

> Sent: Tuesday, August 20, 2013 2:34 PM

> To: Nebeker, Mark (USADC)

> Subject: Re: CEI v. EPA (13-1074)

>

> Dear Mark,

>

> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, "Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
production, that we seek and that are responsive.

>

> Best,

> Chris Horner

>

>

> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>

>> Chris -

>>

>> Mark Nebeker suggested that I send this FOIA response (mailed last
>> Thursday, August 15) to you directly since his computer is still not
>> operating today.

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>> _

>> _

>>

>> -----Original Message-----

>> From: Anderson, Cindy

>> Sent: Monday, August 19, 2013 10:28 AM

>> To: 'mark.nebeker@usdoj.gov'

>> Subject: CEI v. EPA (13-1074)

>>

>> Mark -

>>

>> Attached are the documents that were sent to CEI last Thursday,
>> August 15, in response to FOIA request HQ-2013-005618 (for evidence
>> of training that Gina McCarthy took regarding record-keeping, etc.).

>>

>> Thanks!

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>>

>>

>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: RE: CEI v. EPA (13-1074)
Date: Thursday, August 29, 2013 11:38:00 AM

(b)(5) ACP, DPP, AWP [REDACTED]

Cindy
564-2690

-----Original Message-----

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, August 29, 2013 11:28 AM
To: Anderson, Cindy
Subject: FW: CEI v. EPA (13-1074)

Here is Horner's email. [REDACTED] Ex. 5 AWP

-----Original Message-----

From: Christopher Horner [mailto:chris_horner@cei.org]
Sent: Thursday, August 29, 2013 11:19 AM
To: Nebeker, Mark (USADC)
Subject: Re: CEI v. EPA (13-1074)

Dear Mark,

Per the below and our telephone conversation of earlier this morning, it seems that if EPA would simply show us one of these documents we would be able to know if their response to date is, despite the point I made in the Aug. 20 email to you, below, nonetheless sufficient for our needs, and avoiding you filing an answer, setting forth a briefing schedule etc. It should take us less than five minutes of review to know that.

We would be able to determine whether we could dismiss if EPA can show us -- via dropbox or otherwise -- a copy of one of the responsive invoices, that is the invoice itself, or alternately just the "text"-relevant pages but again of the bill itself as requested in our narrowing. Of course, dismissal will depend upon whether there is certain responsive metadata that was not provided in the excerpted portions EPA placed into the spreadsheet provided to us. But providing just one such invoice or the relevant, narrowed part of just one of those responsive invoices would let us know if we can accept the provided information as a sufficient proxy for the records/excerpted, copied portions of the records themselves.

If it is then I should think we also can withdraw the follow-on FOIA request of ours (Aug 8?) that we discussed. If they would like a confidentiality agreement or agreed protection (via an agreed order, or otherwise) that we will return, and will not maintain or circulate the information then I'm happy to provide that. But in that event they cannot mask information it contains.

Let me know if that's feasible. Otherwise, please do send the proposed schedule to me for review.

Best,

Chris

On 8/28/13 9:58 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

> It is my understanding that the phone and text message bills to EPA
> are sent only electronically in very large files on a monthly basis.
> Each invoice is, in fact, on average about 43 megabytes. Were those
> monthly bills to be printed out they would likely constitute 4,000 to
> 6,000 pages for each PDF version of the invoice.
>
> In order to respond to your request, as clarified in your July 3 email
> to Larry Weinstock, for billings for only text messages from the
> mobile device that Gina McCarthy used during the time period you
> indicated, the Office of Environmental Information compiled the
> information provided to you by searching for the bill information
> provided on Ms. McCarthy's phone. I hope this clarifies the Agency's actions for you.

>

>

> -----Original Message-----

> From: Christopher Horner [mailto:chris_horner@cei.org]

> Sent: Tuesday, August 20, 2013 2:34 PM

> To: Nebeker, Mark (USADC)

> Subject: Re: CEI v. EPA (13-1074)

>

> Dear Mark,

>

> While I gave your email address on related correspondence in front
> of me, I wanted to shoot you over what I was speaking about
> yesterday. Our request re the phone/PDA bills was for the bills
> themselves; when we narrowed, we agreed to narrow to the text message
> portions of the bills themselves. EPA instead created the attached
> doc, which on its face cites the invoice numbers from which the
> information was obtained (See second column, Invoice number", e.g.,
> 6295614107, 6309086813, 6322520212, etc.). It is those invoices, whose numbers EPA cites in its nominal
> production, that we seek and that are responsive.

>

> Best,

> Chris Horner

>

>

> On 8/19/13 10:56 AM, "Anderson, Cindy" <anderson.cindy@epa.gov> wrote:

>

>> Chris -

>>

>> Mark Nebeker suggested that I send this FOIA response (mailed last

>> Thursday, August 15) to you directly since his computer is still not

>> operating today.

>>

>> Cindy Anderson

>> EPA/OGC

>> (202) 564-2690

>> _____

>> _

>> _

>>



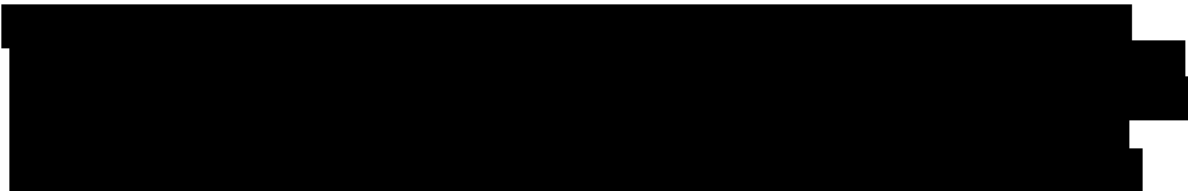
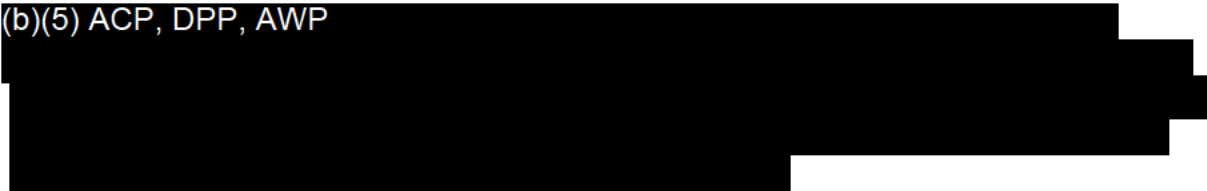
>> -----Original Message-----

>> From: Anderson, Cindy
>> Sent: Monday, August 19, 2013 10:28 AM
>> To: 'mark.nebeker@usdoj.gov'
>> Subject: CEI v. EPA (13-1074)
>>
>> Mark -
>>
>> Attached are the documents that were sent to CEI last Thursday,
>> August 15, in response to FOIA request HQ-2013-005618 (for evidence
>> of training that Gina McCarthy took regarding record-keeping, etc.).
>>
>> Thanks!
>>
>> Cindy Anderson
>> EPA/OGC
>> (202) 564-2690
>>
>>
>

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: RE: CEI v. EPA, CA No. 13-1074
Date: Tuesday, September 17, 2013 12:19:00 PM

Mark –

(b)(5) ACP, DPP, AWP



Cindy
564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, September 16, 2013 10:32 AM
To: Christopher Horner
Cc: Anderson, Cindy
Subject: RE: CEI v. EPA, CA No. 13-1074

One snag. I was mistaken in my thinking that we got NO details from AT&T. It seems that there was a brief period that the Agency may have gotten some details not of an actual text message, but of the number that a text went to or was received from. It got these on CDs that covered billing for the whole agency's mobile devices for about 6 months in 2011, and which I just recently learned had been located. I am attempting to get more details, but don't want you dismissing if this makes any difference to your client. But we'll work toward getting this resolved regardless.

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Monday, September 16, 2013 9:40 AM
To: Nebeker, Mark (USADC)
Cc: Anderson.cindy@epa.gov; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA, CA No. 13-1074

Thank you Mark,

We can't state that our request was satisfied, obviously, but with this information we will dismiss.

Best,
Chris Horner

On 9/12/13 9:54 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

Mr. Horner –

As you requested in your email message of August 29, attached is information that was extracted from random invoices for the time period that you had requested regarding billing for Gina McCarthy's text messages over three years.

You will see that the Data for "TXT Messaging" is an aggregate number. The number for this particular billing period is 117 which, I understand, corresponds to the same number in the information provided to you by the Office of Air and Radiation for the invoice of that date, 23-Jul-10, that is attributable to the EPA-provided mobile phone assigned to Ms. McCarthy.

Although phone calls are delineated by each number called and the airtime and charges, that is not true for text messages. It is my understanding the Agency does not receive a record from Verizon (or, in this case, its predecessor, AT&T) of individual text messages made by its employees, including Ms. McCarthy.

You may also note that this portion of the billing that is sent to EPA electronically for all telephone usage is for a phone number that was originally assigned to Frank Rusincovitch in 2008. I understand that, in accordance with EPA practice, one individual procured the 15 telephone devices in 2008 for the Agency and they were distributed to EPA officials as needed. The office responsible for tracking billing from the internal inventory database also keeps track of who is assigned to each device by means of the assigned telephone number. In this case, I believe, the number was activated for Gina McCarthy in 2009.

Finally, material on this document that does not relate to billing for text messages has been redacted as non-responsive.

Please let me know if this satisfies your inquiry and if your client is now prepared to dismiss some or all of the claims in the above civil action.

Mark Nebeker

(202) 252-2536

From: [Anderson, Cindy](#)
To: [Nebeker, Mark \(USADC\)](#)
Subject: RE: CEI v. EPA, CA No. 13-1074
Date: Wednesday, September 18, 2013 3:31:00 PM

(b)(5) ACP, DPP, AWP

Thanks!

Cindy
564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, September 18, 2013 3:05 PM
To: Anderson, Cindy
Subject: RE: CEI v. EPA, CA No. 13-1074

(b)(5)

AWP


[REDACTED]

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Tuesday, September 17, 2013 1:02 PM
To: Nebeker, Mark (USADC)
Subject: FW: CEI v. EPA, CA No. 13-1074

Mark –

(b)(5) ACP, DPP, AWP

(b)(5)
ACP,
DPP,



(b)(5) ACP, DPP, AWP



Cindy
564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Monday, September 16, 2013 10:32 AM
To: Christopher Horner
Cc: Anderson, Cindy
Subject: RE: CEI v. EPA, CA No. 13-1074

One snag. I was mistaken in my thinking that we got NO details from AT&T. It seems that there was a brief period that the Agency may have gotten some details not of an actual text message, but of the number that a text went to or was received from. It got these on CDs that covered billing for

the whole agency's mobile devices for about 6 months in 2011, and which I just recently learned had been located. I am attempting to get more details, but don't want you dismissing if this makes any difference to your client. But we'll work toward getting this resolved regardless.

From: Christopher Horner [<mailto:chris.horner@cei.org>]
Sent: Monday, September 16, 2013 9:40 AM
To: Nebeker, Mark (USADC)
Cc: Anderson.cindy@epa.gov; Hans Bader; Sam Kazman
Subject: Re: CEI v. EPA, CA No. 13-1074

Thank you Mark,

We can't state that our request was satisfied, obviously, but with this information we will dismiss.

Best,
Chris Horner

On 9/12/13 9:54 AM, "Nebeker, Mark (USADC)" <Mark.Nebeker@usdoj.gov> wrote:

Mr. Horner –

As you requested in your email message of August 29, attached is information that was extracted from random invoices for the time period that you had requested regarding billing for Gina McCarthy's text messages over three years.

You will see that the Data for "TXT Messaging" is an aggregate number. The number for this particular billing period is 117 which, I understand, corresponds to the same number in the information provided to you by the Office of Air and Radiation for the invoice of that date, 23-Jul-10, that is attributable to the EPA-provided mobile phone assigned to Ms. McCarthy.

Although phone calls are delineated by each number called and the airtime and charges, that is not true for text messages. It is my understanding the Agency does not receive a record from Verizon (or, in this case, its predecessor, AT&T) of individual text messages made by its employees, including Ms. McCarthy.

You may also note that this portion of the billing that is sent to EPA electronically for all telephone usage is for a phone number that was originally assigned to Frank Rusincovitch in 2008. I understand that, in accordance with EPA practice, one individual procured the 15 telephone devices in 2008 for the Agency and they were distributed to EPA officials as needed. The office responsible for tracking billing from the internal inventory database also keeps track of who is assigned to each device by means of the assigned telephone number. In this case, I believe, the number was activated for Gina McCarthy in 2009.

Finally, material on this document that does not relate to billing for text messages has been redacted as non-responsive.

Please let me know if this satisfies your inquiry and if your client is now prepared to dismiss some or all of the claims in the above civil action.

Mark Nebeker
(202) 252-2536

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#)
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858
Date: Thursday, June 13, 2013 10:06:00 AM

(b)(5) ACP, DPP
[Redacted]

Hope this helps –
cindy

From: Weinstock, Larry
Sent: Tuesday, June 11, 2013 10:15 AM
To: Anderson, Cindy
Subject: FW: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP, (b) (5) ACP
[Redacted]

Thanks
Larry

From: Hamilton, Sabrina
Sent: Tuesday, June 04, 2013 1:25 PM
To: Anderson, Cindy
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy; Weinstock, Larry
Subject: FW: FOIA Assignment - EPA-HQ-2013-006858

Cindy,

(b) (5) DPP, (b) (5) ACP
[Redacted]

Sabrina

From: Weinstock, Larry
Sent: Tuesday, June 04, 2013 9:17 AM
To: Faulkner, Martha
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP, (b) (5) ACP

Thanks

Larry

From: Faulkner, Martha
Sent: Monday, June 03, 2013 2:32 PM
To: Weinstock, Larry
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: FOIA Assignment - EPA-HQ-2013-006858

Hello Larry,

Please check FOIA on line for the attached case file. Please let me know if it doesn't show up in your unassigned case box. Thanks

Martha

From: Faulkner, Martha
Sent: Monday, June 03, 2013 2:32 PM
To: Weinstock, Larry
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: FOIA Assignment - EPA-HQ-2013-006858

Hello Larry,

Please check FOIA on line for the attached case file. Please let me know if it doesn't show up in your unassigned case box. Thanks

Martha

From: Hamilton, Sabrina
Sent: Tuesday, June 04, 2013 12:43 PM
To: Weinstock, Larry
Cc: Noonan, Jenny; Russell, Sherry; Walker, Jean; Ketcham-Colwill, Nancy
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Larry,

(b) (5) DPP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ?

Sabrina

From: Jones, Mike
Sent: Tuesday, May 21, 2013 12:56 PM
To: Russell, Sherry
Cc: Noonan, Jenny; Hamilton, Sabrina
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry... sorry this took so long (was out of the office 5/16 – 5/20). (b) (5) DPP

Mike

Michael N Jones
Acquisition and Accountability
Central Operations and Resources
Office of Air Quality Planning and Standards
(919) 541-0528

From: Russell, Sherry
Sent: Thursday, May 16, 2013 3:26 PM
To: Jones, Mike
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Hi Mike,

I understand that you have a few responsive documents to provide for this FOIA. Would you please send them to me with a cc to Jenny Noonan and Sabrina Hamilton as soon as you can. Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Curry, Jeff
Sent: Thursday, May 16, 2013 1:39 PM
To: Russell, Sherry
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry:

As requested, here are PDFs of the emails I have identified that pertain to the Battelle COI.

(b) (5) DPP

Thanks.
Jeff
919-541-4018

***** NOTICE OF CONFIDENTIALITY *****
This message may contain information that is confidential, deliberative, or
subject to the Privacy Act (5 USC 552a) and should be treated accordingly.

From: Russell, Sherry
Sent: Tuesday, May 14, 2013 1:37 PM
To: Curry, Jeff
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re:
"Battelle", "AAPCA" -- EPA-HQ-2013-006005

(b) (5) DPP

? Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Curry, Jeff
Sent: Tuesday, May 14, 2013 1:28 PM
To: Russell, Sherry
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re:
"Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry:

(b) (5) DPP

Thanks.
Jeff
919-541-4018

***** NOTICE OF CONFIDENTIALITY *****
This message may contain information that is confidential, deliberative, or
subject to the Privacy Act (5 USC 552a) and should be treated accordingly.

From: Russell, Sherry
Sent: Tuesday, May 14, 2013 11:18 AM
To: Jones, Mike; Curry, Jeff
Cc: Noonan, Jenny
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records
re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Hi Mike and Jeff,

Please see the attached FOIA Request. Kay said that it should go to you guys for
action. I will soon be receiving this as a task in FOIAonline from the Administrator's
Office, and will send you more information on due dates, etc. once received. This is
just a heads-up. Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Anderson, Cindy
Sent: Tuesday, May 14, 2013 10:29 AM
To: Hamilton, Sabrina
Cc: Koehler, Alfred; Miller, Kevin
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle",
"AAPCA" -- EPA-HQ-2013-006005
Importance: High

Sabrina –

Thanks so much for taking this on.

I have your more recent email message to me as well.

(b) (5) DPP



Again, thanks so much for being such a responsible person.

Cindy
564-2690

From: Hamilton, Sabrina
Sent: Tuesday, May 14, 2013 10:21 AM
To: Russell, Sherry; Newton, Jonathan; Boyd, Rory
Cc: Anderson, Cindy; Koehler, Alfred; Miller, Kevin
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle",
"AAPCA" -- EPA-HQ-2013-006005

Sherry,

(b) (5) DPP

. Thanks,

Sabrina

From: Anderson, Cindy
Sent: Thursday, May 02, 2013 2:45 PM
To: Hamilton, Sabrina
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Sabrina –

Here's the FOIA-online number – in messages below.

(b) (5) DPP

Thanks for your help on this!
cindy

From: Miller, Kevin
Sent: Wednesday, May 01, 2013 12:17 PM
To: Anderson, Cindy
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Pretty sure this is the one you mentioned --

From: Gottesman, Larry
Sent: Wednesday, May 01, 2013 12:11 PM
To: Miller, Kevin
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

From: LindaE Green [<mailto:Green.LindaE@epamail.epa.gov>] **On Behalf Of** FOIA HQ
Sent: Wednesday, May 01, 2013 11:57 AM
To: Gottesman, Larry
Subject: Fw: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Larry,

The below request has been assigned tracking number EPA-HQ-2013-006005.

Linda

----- Forwarded by LindaE Green/DC/USEPA/US on 05/01/2013 11:54 AM -----

From: Chris Horner <chornerlaw@aol.com>

To: FOIA HQ@EPA

Date: 04/25/2013 10:32 AM

Subject: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

To EPA HQ FOIA Office,

Please see the request under the Freedom of Information Act attached in PDF format. If you have any questions please do not hesitate to contact me.


Yours,
Chris Horner
American Tradition Institute

The information contained in this message may be privileged. This transmission is therefore intended by the sender to be confidential and intended only for the proper recipient. If you are not the intended recipient distribution of this message is prohibited. *(See attached file: ATI EPA Battelle FOI Request.pdf)*

From: [Anderson, Cindy](#)
To: [Anderson, Cindy](#); [Weinstock, Larry](#); [Gottesman, Larry](#)
Cc: [Newton, Jonathan](#); [Ketcham-Colwill, Nancy](#); [Miller, Kevin](#); [Hamilton, Sabrina](#)
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858
Date: Thursday, June 06, 2013 10:05:04 AM
Importance: High

All –

(b) (5) DPP, (b) (5) ACP

A large rectangular area of the email body is completely redacted with a solid black box.


Thanks so much Larry!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Anderson, Cindy
Sent: Thursday, June 06, 2013 9:51 AM
To: Weinstock, Larry; Gottesman, Larry
Cc: Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy; Miller, Kevin; Hamilton, Sabrina
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858
Importance: High

Larry Weinstock (and Larry Gotteman)

(b) (5) DPP, (b) (5) ACP

A large rectangular area of the email body is completely redacted with a solid black box.A rectangular area of the email body is completely redacted with a solid black box.A rectangular area of the email body is completely redacted with a solid black box.A rectangular area of the email body is completely redacted with a solid black box.

Cindy
564-2690

From: Weinstock, Larry
Sent: Thursday, June 06, 2013 9:46 AM
To: Gottesman, Larry
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy; Miller, Kevin; Anderson, Cindy; Hamilton, Sabrina
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

Larry,

(b)(5) DPP
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Larry Weinstock

From: Miller, Kevin
Sent: Thursday, June 06, 2013 9:41 AM
To: Weinstock, Larry; Anderson, Cindy; Hamilton, Sabrina
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy; Gottesman, Larry
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

All,

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]. Thanks.

Kevin

From: Weinstock, Larry
Sent: Wednesday, June 05, 2013 1:57 PM
To: Anderson, Cindy; Hamilton, Sabrina; Miller, Kevin
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]

(b) (5) DPP, (b) (5) ACP

Thanks

Larry

From: Anderson, Cindy

Sent: Tuesday, June 04, 2013 5:30 PM

To: Anderson, Cindy; Weinstock, Larry; Hamilton, Sabrina; Miller, Kevin

Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy

Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

All –

(b) (5) DPP, (b) (5) ACP

Thanks!

Cindy

564-2690

From: Anderson, Cindy

Sent: Tuesday, June 04, 2013 2:24 PM

To: Weinstock, Larry; Hamilton, Sabrina; Miller, Kevin

Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy

Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP, (b) (5) ACP

(b) (5) DPP, (b) (5) ACP

I'll try to look more at this much later this afternoon, but frankly I don't have time to parse it out.

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, June 04, 2013 2:20 PM
To: Anderson, Cindy; Hamilton, Sabrina; Miller, Kevin
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP, (b) (5) ACP

Larry

From: Anderson, Cindy
Sent: Tuesday, June 04, 2013 2:19 PM
To: Weinstock, Larry; Hamilton, Sabrina; Miller, Kevin
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858
Importance: High

Thanks all –

(b) (5) DPP, (b) (5) ACP

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Weinstock, Larry
Sent: Tuesday, June 04, 2013 2:11 PM
To: Hamilton, Sabrina; Anderson, Cindy
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP [REDACTED]

Larry

From: Hamilton, Sabrina
Sent: Tuesday, June 04, 2013 1:25 PM
To: Anderson, Cindy
Cc: johnson, karen; Newton, Jonathan; Boyd, Rory; Noonan, Jenny; Walker, Jean; Ketcham-Colwill, Nancy; Weinstock, Larry
Subject: FW: FOIA Assignment - EPA-HQ-2013-006858

Cindy,

(b) (5) DPP [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED].

Sabrina

From: Weinstock, Larry
Sent: Tuesday, June 04, 2013 9:17 AM
To: Faulkner, Martha
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: RE: FOIA Assignment - EPA-HQ-2013-006858

(b) (5) DPP [REDACTED]
[REDACTED]

Thanks
Larry

From: Faulkner, Martha
Sent: Monday, June 03, 2013 2:32 PM
To: Weinstock, Larry
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: FOIA Assignment - EPA-HQ-2013-006858

Hello Larry,

Please check FOIA on line for the attached case file. Please let me know if it doesn't show up in your unassigned case box. Thanks

Martha

From: Faulkner, Martha
Sent: Monday, June 03, 2013 2:32 PM
To: Weinstock, Larry
Cc: Ketcham-Colwill, Nancy; Hammond, Gloria; Hamilton, Sabrina
Subject: FOIA Assignment - EPA-HQ-2013-006858

Hello Larry,

Please check FOIA on line for the attached case file. Please let me know if it doesn't show up in your unassigned case box. Thanks

Martha

From: Hamilton, Sabrina
Sent: Tuesday, June 04, 2013 12:43 PM
To: Weinstock, Larry
Cc: Noonan, Jenny; Russell, Sherry; Walker, Jean; Ketcham-Colwill, Nancy
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Larry,

(b) (5) DPP [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ?

Sabrina

From: Jones, Mike
Sent: Tuesday, May 21, 2013 12:56 PM
To: Russell, Sherry
Cc: Noonan, Jenny; Hamilton, Sabrina
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry... sorry this took so long (was out of the office 5/16 – 5/20). (b) (5) DPP [REDACTED]

[REDACTED] Mike

Michael N Jones

Acquisition and Accountability
Central Operations and Resources
Office of Air Quality Planning and Standards
(919) 541-0528

From: Russell, Sherry
Sent: Thursday, May 16, 2013 3:26 PM
To: Jones, Mike
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Hi Mike,

(b) (5) DPP

. Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Curry, Jeff
Sent: Thursday, May 16, 2013 1:39 PM
To: Russell, Sherry
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry:

(b) (5) DPP

Thanks.
Jeff
919-541-4018

***** NOTICE OF CONFIDENTIALITY *****
This message may contain information that is confidential, deliberative, or
subject to the Privacy Act (5 USC 552a) and should be treated accordingly.

From: Russell, Sherry
Sent: Tuesday, May 14, 2013 1:37 PM
To: Curry, Jeff
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

(b) (5) DPP

? Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Curry, Jeff
Sent: Tuesday, May 14, 2013 1:28 PM
To: Russell, Sherry
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry:

(b) (5) DPP

?

Thanks.
Jeff
919-541-4018

***** NOTICE OF CONFIDENTIALITY *****
This message may contain information that is confidential, deliberative, or
subject to the Privacy Act (5 USC 552a) and should be treated accordingly.

From: Russell, Sherry
Sent: Tuesday, May 14, 2013 11:18 AM
To: Jones, Mike; Curry, Jeff
Cc: Noonan, Jenny
Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Hi Mike and Jeff,

Please see the attached FOIA Request. Kay said that it should go to you guys for action. I will soon be receiving this as a task in FOIAonline from the Administrator's Office, and will send you more information on due dates, etc. once received. This is just a heads-up. Thanks.

Sherry Russell
Program Management Analyst
Policy Analysis & Communications Staff
Office of Air Quality Planning and Standards
Phone: 919-541-0306
Fax: 919-541-2464

From: Anderson, Cindy
Sent: Tuesday, May 14, 2013 10:29 AM
To: Hamilton, Sabrina
Cc: Koehler, Alfred; Miller, Kevin
Subject: RE: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Importance: High

Sabrina –

Thanks so much for taking this on.

I have your more recent email message to me as well.

(b) (5) DPP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Again, thanks so much for being such a responsible person.

Cindy

564-2690

From: Hamilton, Sabrina

Sent: Tuesday, May 14, 2013 10:21 AM

To: Russell, Sherry; Newton, Jonathan; Boyd, Rory

Cc: Anderson, Cindy; Koehler, Alfred; Miller, Kevin

Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA" -- EPA-HQ-2013-006005

Sherry,

(b) (5) DPP

[REDACTED]

[REDACTED]

[REDACTED]. Thanks,

Sabrina

From: Anderson, Cindy

Sent: Thursday, May 02, 2013 2:45 PM



To: Hamilton, Sabrina

Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Sabrina –

Here's the FOIA-online number – in messages below.

(b) (5) DPP



Thanks for your help on this!

cindy

From: Miller, Kevin

Sent: Wednesday, May 01, 2013 12:17 PM

To: Anderson, Cindy

Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Pretty sure this is the one you mentioned --

From: Gottesman, Larry

Sent: Wednesday, May 01, 2013 12:11 PM

To: Miller, Kevin

Subject: FW: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

From: LindaE Green [<mailto:Green.LindaE@epamail.epa.gov>] **On Behalf Of** FOIA HQ

Sent: Wednesday, May 01, 2013 11:57 AM

To: Gottesman, Larry

Subject: Fw: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

Larry,

The below request has been assigned tracking number EPA-HQ-2013-006005.

Linda

----- Forwarded by LindaE Green/DC/USEPA/US on 05/01/2013 11:54 AM -----

From: Chris Horner <chornerlaw@aol.com>

To: FOIA HQ@EPA

Date: 04/25/2013 10:32 AM

Subject: Request under the Freedom of Information Act – Certain Agency Records re: "Battelle", "AAPCA"

To EPA HQ FOIA Office,

Please see the request under the Freedom of Information Act attached in PDF format. If you have any questions please do not hesitate to contact me.

Yours,
Chris Horner
American Tradition Institute

The information contained in this message may be privileged. This transmission is therefore intended by the sender to be confidential and intended only for the proper recipient. If you are not the intended recipient distribution of this message is prohibited. *(See attached file: ATI EPA Battelle FOI Request.pdf)*

From: [Anderson, Cindy](#)
To: [Bruce, Barbara](#)
Subject: RE: FOIA request EPA-HQ-2013-009249
Date: Thursday, September 12, 2013 11:24:00 AM
Attachments: [Horner \(2013-009249\) Aug.2013.pdf](#)

Requester has attachment.

Here's the pdf of this email string to be uploaded to FOIAonline for this FOIA request from Chris Horner.

Thanks so much for your help!

Cindy
564-2690

From: Bruce, Barbara
Sent: Thursday, September 12, 2013 11:14 AM
To: Anderson, Cindy
Subject: RE: FOIA request EPA-HQ-2013-009249

Ok send the pdf to me as an attachment in the email and I can save and scan it into FOIA Online

From: Anderson, Cindy
Sent: Thursday, September 12, 2013 11:12 AM
To: Bruce, Barbara
Subject: FW: FOIA request EPA-HQ-2013-009249

Barbara –

Could you please help me enter the following email messages to FOIAonline for the above FOIA request from Chris Horner? (sooner or later I know I have to learn FOIAonline, but Kevin suggested I might ask you to help this time)

I will pdf the email string below to send to you, as well as print it out and put in your box.

Thanks!

Cindy
564-2690

From: Anderson, Cindy
Sent: Wednesday, September 11, 2013 4:43 PM
To: 'Chris Horner'
Subject: RE: FOIA request EPA-HQ-2013-009249

Mr. Horner –

I understand from your response that you remain interested in the information that you requested that is now assigned the number EPA-HQ-2013-009249.

Processing of that particular request will continue unabated, without any tolling at this time, based on your representations below.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Chris Horner [<mailto:CHorner@cei.org>]
Sent: Wednesday, September 11, 2013 2:50 PM
To: Anderson, Cindy
Subject: RE: FOIA request EPA-HQ-2013-009249

Dear Ms. Anderson,

We are not aware of any progress in the litigation you refer to, as discussed, below. We are not waiving and have not waived any rights in relation to 009249 or any other request by verbally characterizing to EPA and DoJ counsel that -009249 was to protect us against EPA's current approach of not providing the responsive records we requested in 006937, but instead providing certain responsive information from those records.

For that latter reason there does not appear to be any pending or potential resolution, as in that call we suggested resolution was possible after reviewing exemplar responsive records; as you note this was two weeks ago, and we have received no such records, nor an assurance of receiving such records, but only demurrer. In fact, it is reasonable to conclude that EPA still will not produce responsive records (as identified in the "Invoice Nos" on the spreadsheet EPA provided excerpting certain responsive information from those records).

Regardless, this interpretation or response below is unilateral and in error, please do not cease processing that request, and we plan to continue operating on the relevant timetable in protecting our appellate rights as regards 009249 consistent with our request date.

If you have any questions please do not hesitate to contact me.

Yours,

Christopher C. Horner Senior Fellow Competitive Enterprise Institute 1899 L St, NW 12th Floor Washington, DC, 20036 +1.202.262.4458 (M)

-----Original Message-----

From: Anderson, Cindy [<mailto:anderson.cindy@epa.gov>]
Sent: Wed 9/11/2013 2:37 PM
To: Chris Horner
Subject: FOIA request EPA-HQ-2013-009249

Mr. Horner -

I am writing in regard to the telephone conversation of August 29 between Mark Nebeker, Assistant U.S. Attorney, and you (to which I was also a party) about one of the pending FOIA lawsuits for which you serve as plaintiff's counsel.

After receiving information responsive to your earlier FOIA request for phone bills related to Gina McCarthy's use of text messages over a three-year period, you submitted an additional FOIA request, noted by number in the subject line above.

Based on the August 29 conversation, I understand that you intended the more recent FOIA request seeking "Certain Agency Records: Gina McCarthy Complete Phone/PDA bills, billing periods ending December 23, 2009, July 5, 2011" to be only "belt and suspenders" to assure that the organization you represent, Competitive Enterprise Institute, is sent the information that it continues to seek regarding billing for text messages related to Gina McCarthy's use of her EPA-issued mobile phone.

In these circumstances, I am writing now to let you know that processing of the more recent FOIA request regarding bills for Ms. McCarthy's text messages for two specified billing periods is now in abeyance, or tolled, pending potential resolution of the lawsuit related to the same information, that litigation being CEI v. EPA (13-1074, DDC).

I appreciate your acknowledging receipt of this message.

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Fritz, Matthew](#)
To: [Anderson, Cindy](#)
Subject: RE: FOIA request/litigation from Competitive Enterprise Institute for info re Gina McCarthy IT training
Date: Thursday, August 08, 2013 2:56:58 PM

Good afternoon Cindy,

Thank you for the alert and the information. (b) (5) DPP, (b) (5) ACP If I have any questions I will be sure to reach back out to you.

-----Original Message-----

From: Anderson, Cindy
Sent: Thursday, August 08, 2013 2:35 PM
To: Fritz, Matthew
Subject: FOIA request/litigation from Competitive Enterprise Institute for info re Gina McCarthy IT training

Matt -

I'm an attorney in the Info Law Practice Group (General Law Office) and serving as Agency Counsel in two recent FOIA lawsuits from Competitive Enterprise Institute (and its sister org, American Traditions Institute/ATI).

(b)(5) ACP, DPP, AWP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Please call me anytime with questions or if you'd like to discuss this FOIA request and lawsuit.

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

-----Original Message-----

From: Hilton, Patricia
Sent: Thursday, August 08, 2013 1:32 PM
To: Anderson, Cindy

Cc: Maher, Karen; Watkins, Harrell; Huang, Cindy; Weinstock, Larry
Subject: RE: McCarthy 2013 it tng

Hi Cindy,

(b)(5) ACP, DPP, AWP

Thanks, Pat

Patricia Hilton (Pat), Special Assistant Office of Technology Operations and Planning (OTOP) Office of
Environmental Information (OEI) Office (202) 566-1636 Fax (202) 566-0319

From: [Anderson, Cindy](#)
To: [johnson, karen](#)
Cc: [Gottesman, Larry](#); [Jackson, Mildred](#); [Hamilton, Sabrina](#)
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 11:21:00 AM
Importance: High

(b) (5) DPP, (b) (5) ACP [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

By copy of this message, I am sending it again to OAR as well.

Thanks for your attention.

Cindy Anderson
EPA/OGC
(202) 564-2690

-

From: johnson, karen
Sent: Wednesday, May 01, 2013 11:12 AM
To: Anderson, Cindy
Cc: Gottesman, Larry; Jackson, Mildred
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

FYI - (b) (5) DPP, (b) (5) ACP [REDACTED]
[REDACTED]

From: Jackson, Mildred
Sent: Tuesday, April 30, 2013 6:01 PM
To: johnson, karen
Cc: Koehler, Alfred; Floyd-Coleman, Cynthia
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Good evening Al and Karen. (b) (5) DPP, (b) (5) ACP [REDACTED]

(b) (5) DPP, (b) (5) ACP

[Redacted]

Respectfully,

Mildred A. Jackson
Administrative Freedom of Information Specialist
Policy, Training, and Oversight Division
Management Support Service Center
FOIA Team (3802R)
email: jackson.mildred@epa.gov
telephone: (202) 564-4359
fax: (202) 565-2553

From: Jackson, Mildred
Sent: Tuesday, April 30, 2013 5:21 PM
To: johnson, karen
Cc: Koehler, Alfred; Floyd-Coleman, Cynthia
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

(b) (5) DPP, (b) (5) ACP

[Redacted]

(b) (5) DPP, (b) (5) ACP

Respectfully,

Mildred A. Jackson
Administrative Freedom of Information Specialist
Policy, Training, and Oversight Division
Management Support Service Center
FOIA Team (3802R)
email: jackson.mildred@epa.gov
telephone: (202) 564-4359
fax: (202) 565-2553

From: johnson, karen
Sent: Tuesday, April 30, 2013 1:32 PM
To: Koehler, Alfred
Cc: Jackson, Mildred
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Good afternoon

Can your provide Cindy with an update?

From: Gottesman, Larry
Sent: Tuesday, April 30, 2013 12:21 PM
To: johnson, karen
Cc: Anderson, Cindy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Karen-

Can you provide Cindy an update.

Thanks

Larry F. Gottesman
National FOIA Officer
U.S. Environmental Protection Agency
Washington D.C. 20460

Office - 202 566 2162

Mobile - 202 689 4588

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 12:10 PM
To: Gottesman, Larry
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry –

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

Many thanks!

[Redacted] (b) (5) DPP, (b) (5) ACP [Redacted]
[Redacted]

Cindy
564-2690

From: Weinstock, Larry
Sent: Tuesday, April 30, 2013 11:56 AM
To: Anderson, Cindy; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]

Larry

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 11:06 AM
To: Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry et al. - -

(b) (5) DPP, (b) (5) ACP

There's a link within this article to the (19-page!) FOIA request.

Thanks all!

Cindy
564-2690

From: Grady, Mary
Sent: Monday, April 29, 2013 9:15 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
Subject: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency "bullied" Battelle into ending the contract.

Conservative think tank American Tradition Institute (ATI) filed an April 25 [Freedom of Information Act \(FOIA\) request](#) seeking copies of all EPA Office of the Administrator and Office of Air & Radiation emails, instant messages and text messages sent from Jan. 2 through the present day that reference the new air group and Battelle.

Texas is also pressing EPA for answers about [Battelle's decision to end the contract](#) to provide services to the nascent Association of Air Pollution Control Agencies (AAPCA), a group that aims to give states technical help implementing EPA rules. "[W]e admonish the EPA not just for bullying Battelle into withdrawing from the AAPCA contract, but also for lack of communication with AAPCA directly," Texas said in an April 5 letter to EPA.

AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of

states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

Last month, Battelle dissolved the contract with AAPCA, a move that sources at the time said was a result of EPA pressuring Battelle by threatening its current and potential future contracts with the agency. Battelle at the time would not say what type of work the agency found to be in conflict with the AAPCA contract.

ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

An ATI source says the group filed the FOIA request to find out details of what the source calls "a pretty incredible example of 'gangster government'" that "involves EPA threatening Battelle with contractual retaliation if it continues to do consulting work for states opposed to EPA" regulations. The source is also seeking more information on other examples of people "similarly shaken down" by EPA and may file FOIA requests for those records as well.

Battelle has entered into EPA contracts in recent years worth \$239 million, including more than \$147 million for work in Ohio, where the organization is based, according to *USASpending.gov*.

EPA headquarters and Region V spokespeople last month declined to comment on which contract was in conflict, saying they did not have enough information to make a determination. Battelle declined to provide specifics, though Ohio's Nally told *Inside EPA* March 19 that he would continue to seek more information.

State officials were quick to warn the Battelle conflict could have consequences for other contractors that do work for EPA and for groups that have relationships with the agency. And observers say it also raises question about the role of a contractor that signs a contract to do work for the agency and a recipient of EPA grant funds, given that the AAPCA member states were to have paid Battelle for its work in part through EPA grants.

Additionally, an American Petroleum Institute source tells *Inside EPA* that the trade group contracted with Battelle to conduct a hydraulic fracturing study. "How is it that they could work on that report for us, and they can't work for states to give them advice on air issues? How is that a conflict? It smells."

The TCEQ letter, signed by Chairman Bryan Williams, also asks whether EPA has made similar conflict-of-interest determinations for other multi-jurisdictional organizations, including AAPCA rival NACAA.

"Does NACAA have any contractors that also have contracts with EPA?" the letter asks. "How will this decision be consistently applied to other organizations and contractors?"

Further, it seeks information on what agency official made the Battelle contract decision and what authority it was executed under. And it seeks guidance from EPA for how AAPCA should choose a future contractor in light of the Battelle situation. EPA has not yet responded to the letter, a TCEQ spokesman says. -- *Dawn Reeves* (dreeves@iwpnews.com) This e-mail address is being protected from spambots. You need JavaScript enabled to view it)

From: [Anderson, Cindy](#)
To: [Weinstock, Larry](#); [Ketcham-Colwill, Nancy](#); [Knapp, Kristien](#); [Perrin, Alan](#)
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 10:01:00 AM

Thanks Larry; (b) (5) DPP, (b) (5) ACP
[REDACTED]

Cindy
564-2690

From: Weinstock, Larry
Sent: Wednesday, May 01, 2013 9:57 AM
To: Anderson, Cindy; Ketcham-Colwill, Nancy; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Larry

From: Anderson, Cindy
Sent: Wednesday, May 01, 2013 9:47 AM
To: Ketcham-Colwill, Nancy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Nancy –

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Thanks for your diligence!

Cindy
564-2690

From: Ketcham-Colwill, Nancy
Sent: Tuesday, April 30, 2013 8:50 PM
To: Anderson, Cindy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP

? Just want to know whose on first.

From: Anderson, Cindy

Sent: Tuesday, April 30, 2013 2:56 PM

To: Ketcham-Colwill, Nancy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan

Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Thanks so much Nancy –

(b) (5) DPP, (b) (5) ACP

Thanks for all your help on this and the Other ATI matter.

cindy

From: Ketcham-Colwill, Nancy

Sent: Tuesday, April 30, 2013 2:54 PM

To: Anderson, Cindy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan

Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP

From: Anderson, Cindy

Sent: Tuesday, April 30, 2013 11:06 AM

To: Weinstock, Larry; Knapp, Kristien; Perrin, Alan

Cc: Ketcham-Colwill, Nancy

Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Importance: High

Larry et al. - -

(b) (5) DPP, (b) (5) ACP

(b) (5) DPP, (b) (5) ACP

?

There's a link within this article to the (19-page!) FOIA request.

Thanks all!

Cindy
564-2690

From: Grady, Mary
Sent: Monday, April 29, 2013 9:15 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
Subject: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

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AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

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ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We

are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

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From: [Anderson, Cindy](#)
To: [Ketcham-Colwill, Nancy](#)
Cc: [Weinstock, Larry](#); [Gottesman, Larry](#); [johnson, karen](#)
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 2:27:00 PM

Nancy - -

Thanks so much – again!

(b) (5) DPP, (b) (5) ACP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Cindy
564-2690

From: Ketcham-Colwill, Nancy
Sent: Wednesday, May 01, 2013 2:08 PM
To: Anderson, Cindy
Cc: Weinstock, Larry
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Cindy -- (b) (5) DPP, (b) (5) ACP

[Redacted]

[Redacted]

From: Anderson, Cindy

Sent: Wednesday, May 01, 2013 9:47 AM
To: Ketcham-Colwill, Nancy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Nancy –

(b) (5) DPP, (b) (5) ACP

Thanks for your diligence!

Cindy
564-2690

From: Ketcham-Colwill, Nancy
Sent: Tuesday, April 30, 2013 8:50 PM
To: Anderson, Cindy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP

? Just want to know whose on first.

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 2:56 PM
To: Ketcham-Colwill, Nancy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Thanks so much Nancy –

(b) (5) DPP, (b) (5) ACP

Thanks for all your help on this and the Other ATI matter.
cindy

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Sent: Tuesday, April 30, 2013 2:54 PM
To: Anderson, Cindy; Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

(b) (5) DPP, (b) (5) ACP

From: Anderson, Cindy
Sent: Tuesday, April 30, 2013 11:06 AM
To: Weinstock, Larry; Knapp, Kristien; Perrin, Alan
Cc: Ketcham-Colwill, Nancy
Subject: FW: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Importance: High

Larry et al. - -

(b) (5) DPP, (b) (5) ACP

There's a link within this article to the (19-page!) FOIA request.

Thanks all!

Cindy
564-2690

From: Grady, Mary
Sent: Monday, April 29, 2013 9:15 AM
To: Albright, Scott; Anderson, Cindy; Hammitt, Jennifer; Kelly, Lynn; Margolis, Alan; Miller, Kevin; Nguyen, Quoc; Schulson, Daniel
Subject: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency "bullied" Battelle into ending the contract.

Conservative think tank American Tradition Institute (ATI) filed an April 25 [Freedom of Information Act \(FOIA\) request](#) seeking copies of all EPA Office of the Administrator and Office of Air & Radiation emails, instant messages and text messages sent from Jan. 2 through the present day that reference the new air group and Battelle.

Texas is also pressing EPA for answers about [Battelle's decision to end the contract](#) to provide services to the nascent Association of Air Pollution Control Agencies (AAPCA), a group that aims to give states technical help implementing EPA rules. "[W]e admonish the EPA not just for bullying Battelle into withdrawing from the AAPCA contract, but also for lack of communication with AAPCA directly," Texas said in an April 5 letter to EPA.

AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

Last month, Battelle dissolved the contract with AAPCA, a move that sources at the time said was a result of EPA pressuring Battelle by threatening its current and potential future contracts with the agency. Battelle at the time would not say what type of work the agency found to be in conflict with the AAPCA contract.

ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

An ATI source says the group filed the FOIA request to find out details of what the source calls "a pretty incredible example of 'gangster government'" that "involves EPA threatening Battelle with contractual retaliation if it continues to do consulting work for states opposed to EPA" regulations. The source is also seeking more information on other examples of people "similarly shaken down" by EPA and may file FOIA requests for those records as well.

Battelle has entered into EPA contracts in recent years worth \$239 million, including more than \$147 million for work in Ohio, where the organization is based, according to *USASpending.gov*.

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State officials were quick to warn the Battelle conflict could have consequences for other contractors that do work for EPA and for groups that have relationships with the agency. And observers say it also raises question about

the role of a contractor that signs a contract to do work for the agency and a recipient of EPA grant funds, given that the AAPCA member states were to have paid Battelle for its work in part through EPA grants.

Additionally, an American Petroleum Institute source tells *Inside EPA* that the trade group contracted with Battelle to conduct a hydraulic fracturing study. "How is it that they could work on that report for us, and they can't work for states to give them advice on air issues? How is that a conflict? It smells."

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"Does NACAA have any contractors that also have contracts with EPA?" the letter asks. "How will this decision be consistently applied to other organizations and contractors?"

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Cc: [Weinstock, Larry](#)
Subject: RE: Inside EPA: EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped
Date: Wednesday, May 01, 2013 2:08:00 PM

Cindy -- (b) (5) DPP, (b) (5) ACP
[REDACTED]
[REDACTED]

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Nancy --

(b) (5) DPP, (b) (5) ACP
[REDACTED]
[REDACTED]

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564-2690

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Larry et al. - -

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From: [Miller, Kevin](#)
To: [Anderson, Cindy](#)
Subject: RE: NEW FOIA request form CEI (June 2) re Gina McCarthy's phone bills
Date: Wednesday, June 19, 2013 8:48:24 AM

(b) (5) DPP, (b) (5) ACP [REDACTED] ?

Kevin Miller | US EPA | Office of General Counsel | 1200 Pennsylvania Ave., NW | ARN, Mail Code 2377A | Washington DC 20460 | phone: (202) 564-2691

From: Anderson, Cindy
Sent: Tuesday, June 18, 2013 3:07 PM
To: Miller, Kevin
Subject: NEW FOIA request form CEI (June 2) re Gina McCarthy's phone bills
Importance: High

(b) (5) DPP, (b) (5) ACP [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

Cindy

From: [Anderson, Cindy](#)
To: [Ketcham-Colwill, Nancy](#)
Subject: RE: Never mind about "For Bob P's 11 am phone call with Phil B!"
Date: Thursday, August 08, 2013 10:44:00 AM

Thanks Nancy!

Yes, this is very helpful –
cindy

From: Ketcham-Colwill, Nancy
Sent: Thursday, August 08, 2013 10:11 AM
To: Anderson, Cindy
Subject: RE: Never mind about "For Bob P's 11 am phone call with Phil B!"

(b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Hope that helps!

From: Anderson, Cindy
Sent: Thursday, August 08, 2013 9:37 AM
To: Ketcham-Colwill, Nancy
Subject: RE: Never mind about "For Bob P's 11 am phone call with Phil B!"

Nancy –

[Redacted] (b) (5) DPP, (b) (5) ACP
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]?

Thanks!
Cindy
564-2690

From: Ketcham-Colwill, Nancy
Sent: Wednesday, August 07, 2013 7:57 PM
To: Anderson, Cindy
Subject: Never mind about "For Bob P's 11 am phone call with Phil B!"

You're so popular with me and my computer, we sent this to you instead of Denise Anderson, Bob's assistant. Sorry!

From: Ketcham-Colwill, Nancy
Sent: Wednesday, August 07, 2013 7:31 PM
To: Geller, Michael; Ingram, Amir; Anderson, Cindy
Cc: Goffman, Joseph; McCabe, Janet
Subject: For Bob P's 11 am phone call with Phil B

Here you go. Let us know if Bob needs anything else for the call.

From: [Newton, Jonathan](#)
To: [Anderson, Cindy](#); [Weinstock, Larry](#)
Cc: [No, Fredrick](#); [Miller, Kevin](#); [McDermott, Marna](#); [Minoli, Kevin](#); [Wachter, Eric](#)
Subject: RE: New FOAI Assignment (EPA-HQ-2014-002006)
Date: Monday, January 06, 2014 4:43:55 PM

Larry,

(b) (5) DPP, (b) (5) ACP
[REDACTED]

Jonathan V. Newton, Attorney-Advisor
U.S. EPA, Office of the Executive Secretariat
1200 Pennsylvania Avenue, NW (MC 1105A)
Washington, D.C. 20460
(202) 566-1981

From: Anderson, Cindy
Sent: Monday, January 06, 2014 4:42 PM
To: Weinstock, Larry; Newton, Jonathan
Cc: No, Fredrick; Miller, Kevin; McDermott, Marna; Minoli, Kevin
Subject: RE: New FOAI Assignment (EPA-HQ-2014-002006)
Importance: High

(b) (5) DPP, (b) (5) ACP
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ?

Cindy Anderson
(202) 564-2690

From: Weinstock, Larry
Sent: Monday, January 06, 2014 4:39 PM
To: Weinstock, Larry; Anderson, Cindy; Newton, Jonathan
Cc: No, Fredrick; Miller, Kevin; McDermott, Marna; Minoli, Kevin
Subject: RE: New FOAI Assignment (EPA-HQ-2014-002006)
Importance: High

(b) (5) DPP, (b) (5) ACP
[REDACTED]
[REDACTED]

[REDACTED]. I am going to set up a meeting to discuss how to approach this FOIA for Cindy, Kevin, Marna, Jonathan and myself.

You should receive the invite shortly.

Larry Weinstock
Program Innovation Coordinator
Office of Air and Radiation
202-564-9226

From: Weinstock, Larry
Sent: Tuesday, December 31, 2013 2:57 PM
To: Anderson, Cindy; Newton, Jonathan
Cc: No, Fredrick; Miller, Kevin; McDermott, Marna; Minoli, Kevin
Subject: FW: New FOAI Assignment (EPA-HQ-2014-002006)

This is Chris Horner's follow-up from the Gina text bill. He is asking for all the text messages from:

- 1) Joe Goffman, Senior Counsel OAR
- 2) Janet McCabe
- 3) Margo Oge, OTAQ (retired late 2012)
- 4) Cindy Huang, Staff Assistant To the Assistant Administrator
- 5) **Scott Fulton, former EPA General Counsel**
- 6) Steve Page, Director, OAQPS, Research Triangle Park (RTP)
- 7) Peter Tsirigotis, Director, Sector Policies and Programs Division, OAR:OAQPS, RTP
- 8) Mike Flynn, Director, Office of Radiation and Indoor Air, EPA HQ
- 9) **Bob Perciasepe**
- 10) Curt Spalding, Regional Administrator EPA Region
- 11) Nancy Grantham, Director, EPA RI, Office of Public Affairs
- 12) Ira W. Leighton, former deputy RA, Region

(b) (5) DPP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thanks
Larry Weinstock
Program Innovation Coordinator

Office of Air and Radiation
202-564-9226

From: [Anderson, Cindy](#)
To: [Nguyen, Quoc](#)
Subject: RE: Please update the Reg Review Agenda and additional info request
Date: Tuesday, November 19, 2013 11:38:00 AM

Quoc –

For GLO's Bi-weekly tomorrow:

Please add CEI FOIA (13-009249), request dated Aug. 8, 2013.

(b) (5) DPP, (b) (5) ACP

[REDACTED]

I will add more later when my computer becomes available again; it's been in Mandatory Patch mode most of the morning and is now telling me to close all programs again to Restart.

Cindy
564-2690

From: Nguyen, Quoc
Sent: Tuesday, November 19, 2013 11:07 AM
To: OGC GLO ILPG
Subject: Please update the Reg Review Agenda and additional info request

Hi All,

Please take a look at the attached reg review agenda and send me your updates on agenda items and litigation deadlines by **3:00 pm TODAY**.

Also, to help me keep track of your workload (and assign appeals as appropriate), could fill out the chart below that asks for info on your case load? Please fill out the following chart (should take you 5 minutes by cutting and pasting what's in the reg review) by **COB TODAY**.

Thanks!
Quoc

Case Name	Status	Deadline
Ex: <i>Sparrow (Utah) v. EPA</i>	Supplemental briefing	12/11/13
Ex: <i>CARE v. EPA</i>	Scheduling conference	12/06/13

Quoc P. Nguyen
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20010
202-564-6343

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: [Nebeker, Mark \(USADC\)](#)
To: [Hans Bader](#)
Cc: [Anderson, Cindy](#)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Wednesday, January 29, 2014 6:39:15 PM
Attachments: [image001.png](#)
[CEI_SA.stp.docx](#)

Requester has attachment.

Hans:

This is just a draft and will need final OK from the agency and my Deputy Chief, but what do you think?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 5:10 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Sure, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 5:09 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. I just did a stipulation settling another FOIA case, do you want me to write it up?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 4:30 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Yes, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:29 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Still want me to confer on this? I just saw it.

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
To: Nebeker, Mark (USADC)
Cc: Sam Kazman
Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff

is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. *See Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

(b)(5) AWP

(b)(5) AWP

Thanks!

Cindy Anderson
(202) 564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:28 PM
To: Kelly, Lynn
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Ex. 5 AWP

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Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. See *Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year).

Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

From: [Reilly, Tom](#)
To: [Anderson, Cindy](#)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Thursday, January 30, 2014 3:57:25 PM
Attachments: [image001.png](#)

Cindy,

I can actually say that working with you was a pleasure – thanks for your patience with us - nice that its done.

Tom

From: Anderson, Cindy
Sent: Thursday, January 30, 2014 10:35 AM
To: Reilly, Tom; Clark, Dee
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Tom and Dee –

(b)(5) AWP

[REDACTED]

[REDACTED]

[REDACTED]

And I want to say how much I appreciate your huge efforts and constant good will (toward me, at least) even under sometimes trying circumstances.

You were both terrific all along the way; maybe one single silver-lining (besides having this one settled) related to having to litigate this so far is that I had a chance to get to know you by phone.

Thanks!

Cindy Anderson
(202) 564-2690

From: Minoli, Kevin
Sent: Wednesday, January 29, 2014 4:59 PM
To: Anderson, Cindy
Cc: Miller, Kevin
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

(b)(5) AWP

[REDACTED]

Kevin S. Minoli
Acting Principal Associate General Counsel
Office of General Counsel
Main Office Line: 202-564-8064
Direct Dial: 202-564-5551

From: Anderson, Cindy
Sent: Wednesday, January 29, 2014 4:57 PM
To: Minoli, Kevin
Cc: Miller, Kevin
Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Importance: High

Kevin -

(b) (5) DPP, (b) (5) ACP

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

[REDACTED]

1. [REDACTED]

1. [REDACTED]
 2. [REDACTED]
 3. [REDACTED]
 4. [REDACTED]

(b)(5) AWP

Thanks!

Cindy Anderson
(202) 564-2690

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Wednesday, January 29, 2014 4:28 PM

To: Kelly, Lynn

Subject: FW: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Ex. 5 AWP

From: Hans Bader [<mailto:HBader@cei.org>]

Sent: Tuesday, January 28, 2014 2:51 PM

To: Nebeker, Mark (USADC)

Cc: Sam Kazman

Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience. *See Gratz v. Bollinger*, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader

Co-Counsel for Plaintiff Competitive Enterprise Institute

202-331-2278

(b)(5) AWP

(b)(5) AWP, DPP, ACP

We agree with this, with a change of one word. We would like to insert the word "FOIA" before the words "claims or actions" in this sentence,

Plaintiff, thus, agrees to the dismissal of this action as set forth herein and further agrees not to bring any other claims or actions based in whole or in part on the FOIA requests at issue in this action

So that it reads:

Plaintiff, thus, agrees to the dismissal of this action as set forth herein and further agrees not to bring any other FOIA claims or actions based in whole or in part on the FOIA requests at issue in this action

Of course, we agree to the dismissal of with prejudice of this action, contained earlier in the stipulation, which we agree bars us from bringing any lawsuit, or claim or action, alleging that EPA violated FOIA through its response to the two FOIA requests at issue in this case (such as HQ-2013-005618 and HQ-2013-006937). We recognize that's the whole point of dismissing the lawsuit **with** prejudice: to completely bar such claims or actions.

But we don't want to suggest that materials obtained through EPA's **responses to**, or **compliance with** these requests (as opposed to **violations of FOIA**) somehow can never be mentioned or be admissible (for example, as circumstantial evidence of something, like an agency activity) in some future legal proceeding. By adding "FOIA" before claims (since FOIA only makes violations actionable, not compliance with it), we hope to make this clear beyond doubt. (We think this is what is already intended by the existing language, but we want to be absolutely certain).

From: Hans Bader
Sent: Wednesday, January 29, 2014 7:03 PM
To: 'Nebeker, Mark (USADC)'
Cc: Anderson.cindy@epa.gov
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

I think this looks OK. I hope to get final confirmation from my colleagues soon.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 6:39 PM
To: Hans Bader
Cc: Anderson.cindy@epa.gov
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Hans:

This is just a draft and will need final OK from the agency and my Deputy Chief, but what do you think?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 5:10 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Sure, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 5:09 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. I just did a stipulation settling another FOIA case, do you want me to write it up?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 4:30 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Yes, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:29 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Still want me to confer on this? I just saw it.

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
To: Nebeker, Mark (USADC)
Cc: Sam Kazman
Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the [Laffey Matrix](#) for a lawyer with 11-19 years of experience.

See Gratz v. Bollinger, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

From: [Anderson, Cindy](#)
To: [Miller, Kevin](#)
Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]
Date: Friday, January 31, 2014 10:09:58 AM
Importance: High

(b)(5) AWP

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Miller, Kevin
Sent: Friday, January 31, 2014 10:05 AM
To: Anderson, Cindy
Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Cindy,

(b)(5) AWP

Kevin Miller | US EPA | Office of General Counsel | 1200 Pennsylvania Ave., NW | WJC North, Mail Code 2377A | Washington DC 20460 | phone: (202) 564-2691

-----Original Message-----

From: Anderson, Cindy
Sent: Friday, January 31, 2014 9:20 AM
To: Nebeker, Mark (USADC)
Cc: Miller, Kevin
Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

(b)(5) AWP

Cindy Anderson
EPA/OGC
(202) 564-2690

From: Nebeker, Mark (USADC) [Mark.Nebeker@usdoj.gov]
Sent: Friday, January 31, 2014 9:06 AM
To: Anderson, Cindy
Subject: FW: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

(b)(5) AWP

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Thursday, January 30, 2014 5:59 PM
To: Nebeker, Mark (USADC)
Cc: Anderson.cindy@epa.gov

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Yes, except for the fact that the contact person has changed to "Megan McLaughlin" from "Lydie White":

-Payee -Competitive Enterprise Institute -Contact Person : Megan McLaughlin -Tax ID: 52-1351785 -Bank Name & Address: (b) (4) -Telephone Number: (b) (4) is (b) (4)
CEI is 202-331-1010 -Account Number: (b) (4) -Routing Number (b) (4)

Thanks,

Hans Bader

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, January 30, 2014 5:49 PM
To: Hans Bader
Cc: Anderson.cindy@epa.gov<<mailto:Anderson.cindy@epa.gov>>
Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Can you confirm that this old information on your bank is still accurate? I hear it's from an old email from CEI.

From: Sam Kazman
Sent: Monday, June 24, 2013 4:27 PM
To: Lo, Michelle (USADC) (Michelle.Lo2@usdoj.gov<<mailto:Michelle.Lo2@usdoj.gov>>)
Cc: Hans Bader
Subject: FW: Stipulation of settlement and dismissal in CEI v. EPA, 12-1497 (ESH)

Michelle:

Here's the banking info you requested:

-Payee -Competitive Enterprise Institute -Contact Person : Lydie White -Tax ID: 52-1351785 -Bank Name & Address: (b) (4) -Telephone Number: (b) (4) phone is (b) (4)
CEI is 202-331-1010 -Account Number: (b) (4) -Routing Number: (b) (4)

Sam

Sam Kazman
General Counsel
CEI
1899 L St. NW, 12th floor
Washington DC 20036
skazman@cei.org<<mailto:skazman@cei.org>>
202-331-2265

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Thursday, January 30, 2014 3:04 PM
To: Nebeker, Mark (USADC)
Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Fine by me.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Thursday, January 30, 2014 3:03 PM
To: Hans Bader

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Will you complain if I white out the “_____/s/” over Mr. Horner’s name? I don’t want the judge thinking that we still need another signature.

From: Hans Bader [<mailto:HBader@cei.org>]

Sent: Thursday, January 30, 2014 2:52 PM

To: Nebeker, Mark (USADC)

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. The actual signature has been added in the attached file. Let me know if this is OK.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Thursday, January 30, 2014 2:37 PM

To: Hans Bader

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

My boss is gonna want your actual signature, sorry. If you can’t get Mr. Horner’s, just take the _____/s/ off from near his name.

From: Hans Bader [<mailto:HBader@cei.org>]

Sent: Thursday, January 30, 2014 2:32 PM

To: Nebeker, Mark (USADC)

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. I added in my name before “/s/” as “Hans Bader.” The Microsoft Word file containing it is attached.

If you need a physical signature instead (although I don’t think that’s necessary), let me know.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]

Sent: Thursday, January 30, 2014 2:11 PM

To: Hans Bader

Subject: RE: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

We’re OK with your request to add “FOIA.” Frankly, I can’t imagine a cause of action based on FOIA requests that isn’t a FOIA claim. I guess you could receive documents in a FOIA case that show that EPA committed a tort. But, as I said, we are OK with your addition.

I put your bar numbers in the stipulation. If it’s OK, sign it and send it back so I can add our signatures and file it.

From: Hans Bader [<mailto:HBader@cei.org>]

Sent: Thursday, January 30, 2014 12:00 PM

To: Nebeker, Mark (USADC)

Subject: Thoughts? RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Did you have any thoughts regarding my email yesterday at 8:02 p.m.? I just wanted to make sure you got the email.

(If there is some other alternative phrasing that would accomplish your objective of barring any suit over alleged FOIA violations with respect to the requests at issue in this action, please let me know).

From: Hans Bader

Sent: Wednesday, January 29, 2014 8:02 PM

To: 'Nebeker, Mark (USADC)'

Cc: 'Anderson.cindy@epa.gov'; Chris Horner
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

We agree with this, with a change of one word. We would like to insert the word “FOIA” before the words “claims or actions” in this sentence,

Plaintiff, thus, agrees to the dismissal of this action as set forth herein and further agrees not to bring any other claims or actions based in whole or in part on the FOIA requests at issue in this action So that it reads:

Plaintiff, thus, agrees to the dismissal of this action as set forth herein and further agrees not to bring any other FOIA claims or actions based in whole or in part on the FOIA requests at issue in this action
Of course, we agree to the dismissal of with prejudice of this action, contained earlier in the stipulation, which we agree bars us from bringing any lawsuit, or claim or action, alleging that EPA violated FOIA through its response to the two FOIA requests at issue in this case (such as HQ-2013-005618 and HQ-2013-006937). We recognize that’s the whole point of dismissing the lawsuit with prejudice: to completely bar such claims or actions.

But we don’t want to suggest that materials obtained through EPA’s responses to, or compliance with these requests (as opposed to violations of FOIA) somehow can never be mentioned or be admissible (for example, as circumstantial evidence of something, like an agency activity) in some future legal proceeding. By adding “FOIA” before claims (since FOIA only makes violations actionable, not compliance with it), we hope to make this clear beyond doubt. (We think this is what is already intended by the existing language, but we want to be absolutely certain).

From: Hans Bader
Sent: Wednesday, January 29, 2014 7:03 PM
To: 'Nebeker, Mark (USADC)'
Cc: Anderson.cindy@epa.gov<<mailto:Anderson.cindy@epa.gov>>
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

I think this looks OK. I hope to get final confirmation from my colleagues soon.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 6:39 PM
To: Hans Bader
Cc: Anderson.cindy@epa.gov<<mailto:Anderson.cindy@epa.gov>>
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Hans:

This is just a draft and will need final OK from the agency and my Deputy Chief, but what do you think?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 5:10 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Sure, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 5:09 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

OK. I just did a stipulation settling another FOIA case, do you want me to write it up?

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Wednesday, January 29, 2014 4:30 PM
To: Nebeker, Mark (USADC)
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Yes, thanks.

From: Nebeker, Mark (USADC) [<mailto:Mark.Nebeker@usdoj.gov>]
Sent: Wednesday, January 29, 2014 4:29 PM
To: Hans Bader
Subject: RE: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

Still want me to confer on this? I just saw it.

From: Hans Bader [<mailto:HBader@cei.org>]
Sent: Tuesday, January 28, 2014 2:51 PM
To: Nebeker, Mark (USADC)
Cc: Sam Kazman
Subject: Settlement offer in CEI v. EPA (13-1074) [billing for Gina McCarthy text messages]

In light of the document productions that have occurred during the pendency of this lawsuit, plaintiff is willing to stipulate to dismissal of this lawsuit as part of a settlement of the case.

Since our lawsuit was a catalyst for these productions, we seek \$2500 in attorneys fees from EPA as part of such a settlement (under which we would waive the right to subsequently petition for any additional fees or costs, as well as agree to dismissal of the suit with prejudice).

Let me know if this is amenable to the government.

(The \$2500 in fees sought are very modest in light of the time expended on the case, and themselves reflect a massive discount from the lodestar figure. Both Chris Horner and I individually have incurred enough hours that we each could seek far more than \$2500 in fees. For example, I alone have spent at least ten hours on the case, which works out to more than \$4000 under the hourly rate applicable to me under the Laffey Matrix<http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf> for a lawyer with 11-19 years of experience. See Gratz v. Bollinger, 353 F.Supp.2d 929, 949 (E.D. Mich. 2005) (noting that I graduated from law school in 1994, and awarding me an hourly rate based on having practice law starting in that year). Chris Horner's billings, as a more senior lawyer, would be higher than mine, since his hourly rate under the Laffey Matrix is over \$500 and he had incurred around 15 hours the last time I conferred with him.)

Thanks for reviewing this proposal.

Hans Bader
Co-Counsel for Plaintiff Competitive Enterprise Institute
202-331-2278

- [illegible]

We can also report, along with case status that's listed,
another release of responsive documents (on Sept. 3) in ATI v. EPA (13-112) re "Sierra Club"
etc.; next release in that case will be Oct. 1;
and CEI v. EPA (13-1074) has court ordered Joint Proposed Briefing Schedule due Sept. 19.

Thanks!

Cindy
564-2690

From: Albright, Scott
Sent: Monday, September 09, 2013 2:43 PM
To: OGC GLO ILPG
Subject: my status tomorrow & bi-weekly items

Hello everyone,

Couple quick things:

- (1) I'll be working from an Alternative Work Location tomorrow but will be reachable by phone (b) (6) or by email during my normal work hours, 8:30 a.m. to 6:00 p.m.
- (2) Please send me any items for Wednesday's **bi-weekly** and any updates to the litigation calendar by tomorrow (Tuesday) at 12 noon.

Thanks,

Scott Albright
U.S. EPA
Office of General Counsel
Information Law Practice Group
(202) 564-2884

From: [Anderson, Cindy](#)
To: [Kelly, Lynn](#)
Subject: RE: drafting Answer to CEI Complaint - your example?
Date: Monday, August 12, 2013 4:23:00 PM

Thanks!

From: Kelly, Lynn
Sent: Monday, August 12, 2013 4:11 PM
To: Anderson, Cindy
Subject: RE: drafting Answer to CEI Complaint - your example?

(b)(5) AWP

[REDACTED]

Lynn Kelly | US EPA | Office of General Counsel | 1200 Pennsylvania Ave., NW | WJC North, Mail Code 2377A | Washington DC 20460 | phone: (202) 564-3266

The contents of this e-mail and any attachments to it may contain deliberative-process, attorney-client, attorney work product, or otherwise privileged material. If you are not the intended recipient, or believe you have received this communication in error, please delete the copy you received, and do not print, copy, retransmit, disseminate, or otherwise use the information. Thank you.

From: Anderson, Cindy
Sent: Monday, August 12, 2013 3:53 PM
To: Kelly, Lynn
Subject: drafting Answer to CEI Complaint - your example?

Lynn –

(b)(5) AWP

[REDACTED]

Thanks!

Cindy

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#); mark.nebeker@usdoj.gov
Subject: RE: good call! [CEI v. EPA] (13-1074)
Date: Wednesday, December 18, 2013 8:00:05 AM

[REDACTED] (b) [REDACTED]
[REDACTED] (5) [REDACTED]
[REDACTED]

Larry

From: Anderson, Cindy
Sent: Tuesday, December 17, 2013 5:18 PM
To: mark.nebeker@usdoj.gov; Weinstock, Larry
Subject: good call! [CEI v. EPA] (13-1074)
Importance: High

Mark –

Looks like I now finally have access to Outlook –

(b)(5) AWP, DPP, ACP [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(I realize that you've been in training most all day today and yesterday; I hope you have a chance to pick up this message and either reply or call me)

Thanks!

Cindy Anderson
EPA/OGC
(202) 564-2690

From: [Weinstock, Larry](#)
To: [Anderson, Cindy](#); mark.nebeker@usdoj.gov
Subject: RE: good call! [CEI v. EPA] (13-1074)
Date: Wednesday, December 18, 2013 7:57:47 AM

I am in training until Friday afternoon but I most certainly do not know but I can ask.

Larry

From: Anderson, Cindy
Sent: Tuesday, December 17, 2013 5:18 PM
To: mark.nebeker@usdoj.gov; Weinstock, Larry
Subject: good call! [CEI v. EPA] (13-1074)
Importance: High

Mark –

Looks like I now finally have access to Outlook –

(b)(5) AWP, DPP, ACP
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

(I realize that you've been in training most all day today and yesterday; I hope you have a chance to pick up this message and either reply or call me)

Thanks!

Cindy Anderson
EPA/OGC

(202) 564-2690

(b)(5)

(b)(5) AWP, DPP, ACP

(b)(5) AWP, DPP, ACP

(b)(5) AWP, DPP, ACP

Thanks!

From: [Anderson, Cindy](#)
To: [Nguyen, Quoc](#)
Subject: RE: reg review agenda items for tomorrow
Date: Tuesday, August 13, 2013 9:11:00 AM

Quoc –

Here's updated info on ATI and adding newer (filed July 15) CEI lawsuit:

ATI v. EPA (13-112, Sierra Club and ALA) – Production due **September 1, 2013**; rolling releases until Status Report due Oct. 15, 2013

CEI v. EPA (13-1074, G.McCarthy-bills for text messages & IT training certificates) – Answer due August 29.

No other hot issues to report at this time.

Cindy

From: Nguyen, Quoc
Sent: Tuesday, August 13, 2013 9:00 AM
To: OGC GLO ILPG
Subject: reg review agenda items for tomorrow

Hi All,

We have a reg review tomorrow. Can you let me know what your agenda items are and update any litigation deadlines that have changed. Grazie!

Quoc

Quoc P. Nguyen
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20010
202-564-6343

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From: [Nguyen, Quoc](#)
To: [Nguyen, Quoc](#); [OGC GLO ILPG](#)
Subject: RE: updated reg review
Date: Tuesday, November 19, 2013 2:43:04 PM
Attachments: [GLO reg review 11-19-13 ILPG.docx](#)

(b) (5) DPP, (b) (5) ACP

Sorry, wrong attachment.

From: Nguyen, Quoc
Sent: Tuesday, November 19, 2013 2:40 PM
To: OGC GLO ILPG
Subject: updated reg review

Let me know if I left anything out.

Thanks,
Quoc

Quoc P. Nguyen
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20010
202-564-6343

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